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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOLUME XXI
JULY, 1917, TO APRIL, 1918

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HERBERT E. BOLTON.

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THE TEXAS STATE HISTORICAL ASSOCIATION
AUSTIN, TEXAS
1918

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Organized 1897

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CONTENTS

NUMBER 1: JULY, 1917

THE TARIFF HISTORY OF THE REPUBLIC OF TEXAS, II.	Asa Kyrus Christian.....	1
MISSISSIPPI AND THE INDEPENDENCE OF TEXAS.....	James E. Winston.....	36
THE "TWIN SISTERS" CANNON, 1836-1865.....	E. W. Winkler.....	61
BRITISH CORRESPONDENCE CONCERNING TEXAS, XXIII.....	Edited by Ephraim Douglass Adams.....	69
BOOK REVIEWS AND NOTICES: Young, <i>The Single Tax Movement in the United States</i>		99
NOTES.....		101
NEWS ITEMS.....		103

NUMBER 2: OCTOBER, 1917

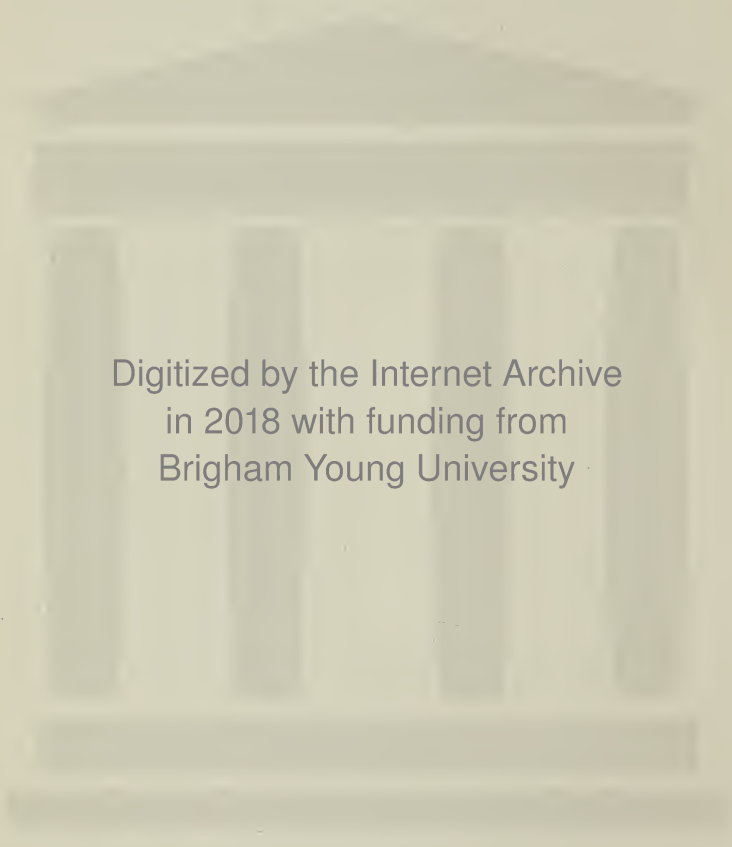
THE MANILA GALLEON AND CALIFORNIA.....	William Lytle Schurz.....	107
NOTES ON EARLY TEXAS NEWSPAPERS, 1819-1836.....	Eugene C. Barker.....	127
THE ARCHIVO GENERAL DE INDIAS.....	Charles E. Chapman.....	145
CONTEMPORARY POETRY OF THE TEXAN REVOLUTION. Contributed by Alex Dienst.....		156
BRITISH CORRESPONDENCE CONCERNING TEXAS, XXIV.....	Edited by Ephraim Douglass Adams.....	185
BOOK REVIEWS AND NOTICES: Priestly, <i>Jose de Galvez, Visitor General of New Spain, 1765-1771</i>		214
NEWS ITEMS.....		220

NUMBER 3: JANUARY, 1918

THE GOVERNMENT OF AUSTIN'S COLONY, 1821-1831...Eugene C. Barker.....	223
THE RESIDENCIA IN THE SPANISH COLONIES....Charles H. Cunningham.....	253
THE POWERS OF THE COMMANDER OF THE CONFEDERATE TRANS-MISSISSIPPI DEPARTMENT.....	Florence Elizabeth Holladay..... 279
MINUTES OF THE AYUNTAMIENTO OF SAN FELIPE DE AUSTIN, 1828-1832, I.....	Edited by Eugene C. Barker..... 299
BOOK REVIEWS AND NOTICES: Wright, <i>The Early History of Cuba, 1492-1586</i>	327
NEWS ITEMS.....	330

NUMBER 4: APRIL, 1918

THE POWERS OF THE COMMANDER OF THE CONFEDERATE TRANS-MISSISSIPPI DEPARTMENT, 1863-1865, II,	Florence Elizabeth Holladay.....	333
THE UNITED STATES GUNBOAT HARRIET LANE.....	Philip C. Tucker, 3d.....	360
HAMILTON STUART: PIONEER EDITOR.....	Ben C. Stuart.....	381
THE NATIVE SONS FELLOWSHIPS.....	Charles E. Chapman.....	389
MINUTES OF THE AYUNTAMIENTO OF SAN FELIPE DE AUSTIN, 1828-1832, II.....	Edited by Eugene C. Barker.....	395
BOOK REVIEWS: Sprunt, <i>Chronicles of Cape Fear River, 1660-1916</i>		424
NEWS ITEMS.....		425
AFFAIRS OF THE ASSOCIATION.....		427
INDEX.....		429



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THE TARIFF HISTORY OF THE REPUBLIC OF TEXAS, II.

- - - - - Asa Kyrus Christian	1
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PUBLISHED QUARTERLY BY

THE TEXAS STATE HISTORICAL ASSOCIATION

AUSTIN, TEXAS

Entered at the post-office, Austin, Texas, as second-class mail matter

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The Association was organized March 2, 1897. The annual dues are two dollars. THE QUARTERLY is sent free to all members.

Contributions to THE QUARTERLY and correspondence relative to historical material should be addressed to Eugene C. Barker, Austin, Texas, or to Herbert E. Bolton, Berkeley, California.

Other correspondence may be addressed to *The Texas State Historical Association*, Austin, Texas.

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XXI

JULY, 1917

No. 1

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THE TARIFF HISTORY OF THE REPUBLIC OF TEXAS, II

ASA KYRUS CHRISTIAN

CHAPTER V

THE REVISION OF THE TARIFF OF 1841, AND THE HIGH TARIFF OF 1842

As a result of the free trade policy of 1840, a reduction in revenue was anticipated, and for that reason an elaborate direct tax measure was passed.⁹⁰ Before this time direct taxes had played a minor part in the finances of the Republic, with opponents of a tariff advocating a direct tax as more just and equal than an indirect,⁹¹ but with the act of January 16, 1840, an effort was made to substitute a direct tax on land and business for the tariff. The direct tax law proved a failure as a producer of revenue, and this, with the tremendous expenditures of the Lamar administration, made necessary the revision of the tariff upward.⁹² The almost hopeless condition of the treasury, the depreciated currency, the expenditures, and a desire to establish a sound fiscal system, led in the Fifth Congress to the introduc-

⁹⁰Gammel, *op. cit.*, II, 183-202.

⁹¹Austin to Wharton, November 18, 1836, in Garrison, *Dip. Corr. Tex.*, I, 137.

⁹²See Miller, *A Financial History of Texas*, 391. Out of an assessment of direct taxes due to yield \$326,370.23 for 1840, as published in the *Telegraph and Texas Register*, June 9, 1841, the actual yield was only \$53,130, while the receipts from customs amounted to \$164,789. The expenditures for the same year amounted to \$2,174,752.

tion of a number of bills bearing on different phases of the question. In the House, all these bills were referred to the committee on finance, which made its report, January 20, 1841.⁹³ The report of the committee was presented by Henry Smith, its chairman, who had formerly been Secretary of the Treasury. It covered the whole subject of the finances, and recommended a system, the foundation of which was the tariff. There was a minority report dissenting from some of the suggestions, but agreeing that the tariff should be raised. Smith's report said that the tariff had been a subject of complaint from the beginning of the government, and that the principal complaints of its inconveniences had always been made by people living to the east of the Trinity. He said that all civilized nations concurred in the opinion that tariff duties were equal and just, and that they were the only taxes collectible in Texas. Abolition of the tariff would cause too great importation of commodities, hence the exportation of money. He thought that the tariff was a real necessity for the support of the government, and that direct taxes were odious and unreliable; that a wise import system would in a few years render all other taxes unnecessary. An increase of from 20 to 25 per cent above existing rates was recommended.⁹⁴

Upon a request from the House, January 25, Smith introduced a bill for increasing customs duties.⁹⁵ In the debate on this bill, February 3, an effort was made to admit free flour, salt, sugar, coffee, lard, pork, bacon, iron and steel, but this amendment was rejected. Other proposals which were rejected were to charge an ad valorem duty of 60 per cent on all articles of taste or luxury; to double the specific and ad valorem duties of 1840; to double specific duties and charge 50 per cent ad valorem for all other articles.⁹⁶ On February 5, a substitute was passed providing that all specific duties as in the Tariff Act of February 5, 1840, should be doubled, and that ad valorem duties of 10 and 15 per cent should be raised to 45 per cent.⁹⁷

⁹³Fifth Congress, *House Journal*, 560.

⁹⁴*Ibid.*, ap. 406, *et seq.*

⁹⁵*Ibid.*, 597.

⁹⁶*Ibid.*, 686, 687.

⁹⁷Gammel, *op. cit.*, II, 576.

It could not be hoped, however, that the tariff question would be left alone. The financial policies of Houston's second administration caused a rise in the value of the currency, and hence the nominally high rates of the tariff became burdensome,⁹⁸ and brought about an effort to revise the tariff downward. However, there was not the same interest in the tariff question as there had been earlier, and as there came to be later. On November 10, 1841, the correspondent of the *Houston Morning Star* wrote that it was his opinion that the tariff would be modified so that articles paying 45 per cent ad valorem in promissory notes would be required to pay only 10 per cent par funds, and those paying 15 per cent would pay only 5 per cent.⁹⁹ This would have been 33½ per cent lower than the rates under the tariff of February 5, 1841, since the real value of the promissory notes at the time of the passage of the act was a third of their par value.

In his annual message, December 20, 1841, President Houston dampened the hopes of those who were in favor of a very low tariff, or a total repeal of the tariff laws and the substitution of direct taxes as the foundation of finances. He expressed himself as firmly in favor of indirect taxes as represented by import duties and against direct taxes. Giving his reasons, he said:

The principal reason why I incline to diminish direct taxation and rely upon import duties as a source of revenue, is, that I deem them the most just and equitable, and the least burdensome to the actual laborer and productive classes of the country. Direct taxation bears immediately upon the farmer, whilst a large portion of the community can only be reached by import duties. It is not the agriculturalist that is generally the consumer of articles of foreign importation; but those who produce nothing from the soil, and rely upon other pursuits for subsistence, and who are not directly engaged in developing the resources of the country will be most sensibly affected by tariff regulations, and thereby contribute a fair proportion to the support of the government. If the farmer is necessarily compelled to purchase articles for consumption of foreign importation, he will contribute, through the merchant, to that branch of revenue—the merchant having added the duty to the price of the article sold. The merchant will receive the produce of the farmer in

⁹⁸Miller, *op. cit.*, 30.

⁹⁹*Telegraph and Texas Register*, November 24, 1841.

exchange for his goods: whereas otherwise he would pay cash into the Treasury for his direct taxes, where nothing would be receivable but money.¹⁰⁰

Although he does not make good his argument that a direct tax would be more burdensome to the farmer than import duties, he does make clear his opposition to the direct tax.

As I have said, there was little opposition to the bill as it was finally passed. It was passed to engrossment in the Senate on December 23, and only two senators voted against it, Greer of San Augustine County and Moore of Harris, Liberty, and Galveston Counties, and on its final passage, January 25, 1842, only three opposed it, and one of these because the duty on lumber was fixed at 15 per cent ad valorem instead of 30 per cent.¹⁰¹ The same correspondent of the *Houston Morning Star* said that the new tariff, heavy as it was, met with little opposition. He was most interested in the provision for enforcing the tariff in the eastern counties, that is, the appointment of an indefinite number of deputy collectors at all creeks, cross-roads, and other places suitable for smuggling. He thought that that provision might not be operative, as so many of the people in that section were opposed to the tariff that they would connive at the violation of the law; and that if it did prove inoperative, the trade of the middle and western sections would be diverted to points on the Sabine where smuggled goods could be secured at a much lower cost than in Houston or Galveston.¹⁰²

The act as passed, and signed by President Houston, January 27, 1842, returned to the policy of levying specific instead of ad valorem duties as they had been levied in the acts of February 5, 1840, and February 5, 1841, and though duties were lighter on necessities, it was the policy to let nothing escape. The free list consisted of stock, bibles, testaments, and primary school books. Even powder, lead, and firearms were subject to an ad valorem duty of 15 per cent, while in earlier acts they had been free. The duties on some of the household necessities were, salt,

¹⁰⁰*Telegraph and Texas Register*, December 29, 1841.

¹⁰¹Sixth Congress, *Senate Journal*, 87; *Telegraph and Texas Register*, February 2, 1842.

¹⁰²*Telegraph and Texas Register*, February 2, 1842.

10 cents a bushel; coffee, 2 cents a pound; teas, 15 cents a pound; butter, 6 cents a pound; bacon, 2 cents a pound; pork in barrels, \$3 a barrel; white sugar, 2 cents a pound; peas and beans, 50 cents a bushel. Articles of luxury were, pleasure carriages, 35 per cent ad valorem; boots and shoes, 25 per cent ad valorem; saddles, 30 per cent ad valorem. Lumber and house frames, which had been free in previous acts, were to pay 15 per cent ad valorem. A duty of 10 per cent ad valorem on bagging, bale rope, and twine for packing cotton, was directed against the United States which produced these articles.¹⁰³

An interesting section of this measure is that requiring an additional duty of 5 per cent on foreign bottoms unless they were from countries having treaties with Texas, or unless they entered under the domestic duty by special act of Congress. This measure was plainly directed at the United States. The Tariff Act of February 5, 1840, had discriminated against the United States in allowing a drawback on all goods re-exported unless from a contiguous state. This measure struck at the carrying trade of the United States. This provision was not enforced until 1843, when the failure of the United States Senate to ratify the commercial treaty caused President Houston to instruct the collectors to enforce it.¹⁰⁴ An effort was made to repeal that section during the Eighth Congress, and a bill repealing it was passed, but it was vetoed by President Houston. The occasion for this effort to repeal the 5 per cent discriminatory duty was the announcement by the Secretary of the Treasury of the United States that Texas would be required to submit to the Tariff Act of 1842, requiring an additional tonnage duty of 50 cents a ton and light money of 50 cents a ton, and an additional duty of 10 per cent on the cargoes of all vessels from countries which had no treaties with the United States. It was argued at that time that the 5 per cent duty was not directed at the United States, as at that time Texas had a treaty with the United States; that though some hoped the discriminatory duties in the United States would divert commerce to Europe, there was no chance for that hope

¹⁰³Gammel, *op. cit.*, II, 735.

¹⁰⁴Elliot to Aberdeen, April 29, 1843, in *THE QUARTERLY*, XVI, 293.

to be realized, as the United States produced the articles most needed in Texas, and could furnish them cheaper in spite of the discriminatory duties than England or France could furnish them; and that the duty was really an additional burden to the importer.¹⁰⁵

CHAPTER VI

THE CAMPAIGN FOR FREE TRADE

The Tariff Act of January 27, 1842, was the last tariff act to find its way to the statute books, but it was after this date that the most strenuous campaign was carried on both in Congress and in newspapers for a radical modification or repeal of all tariff laws. After the passage of this act there developed three well defined parties with regard to the tariff; those who favored maintaining the high rates either for revenue or protection, those who favored absolute free trade, and those who favored a moderate tariff of from 10 to 15 per cent ad valorem. It is with the growing strength of the moderate tariff advocates, whose measures were defeated only by executive veto, that this chapter has to deal.

In the election during the summer of 1842, practically every member of congress from east of the Trinity river was in favor of a repeal of the tariff, while in the western part of the state a good majority were in favor of revision downward.¹⁰⁶ The editor of the *Telegraph and Texas Register*, referring to the exultation of *The Red-Lander* of San Augustine over the election of members in the East favoring repeal, said that the West was ready to join with the East in repealing the tariff laws. He said that the West, besides repelling the Mexican invasion, paid for the support of the government more than four times as much as the East.¹⁰⁷

Later, however, the *Telegraph and Texas Register* aligned itself definitely and permanently with the advocates of a moderate tariff for revenue as a supplement to a direct tax. On November 30, 1842, the editor wrote a long and serious article on the con-

¹⁰⁵*Telegraph and Texas Register*, January 10, 1844.

¹⁰⁶*Telegraph and Texas Register*, October 5, 1842.

¹⁰⁷*Ibid.*

dition of the revenues at that time, and came to the conclusion that on account of the necessity for revenue the tariff could not be repealed at that time. He said that in spite of the utmost endeavor and ingenuity of statesmen in attempting to raise a revenue by taxation, not one-third of the expenses of government has been met from that source. The delinquency of the sheriffs, the distances between residences rendering it impossible to see all the people, and the refusal of some counties to pay direct taxes at all, were given as the reasons for this situation. While he came to the conclusion that import duties were necessary, he thought the rates at that time too high. He again declared that the West bore almost the whole burden of taxation.

It may be well to give some reasons for the opposition of the East to the tariff. In the first place, the facilities for smuggling, and the consequent prevalence thereof, emphasized the burden under which the law-abiding citizens were laboring, and it was largely the efforts of these to discontinue an evil that was constantly before them. Again, the eastern members of congress and eastern newspapers gave as a reason for their opposition the fact that no drawbacks were allowed on goods reshipped from the United States, and that the eastern section being contiguous to the United States must of necessity import practically all their goods from that country. They cited figures showing that the average duties of the United States were 30 per cent, and the average for Texas 25 per cent, hence on all goods brought into the East duties were paid at the rate of 55 per cent.¹⁰⁸ The first of these reasons was probably the real reason, and the second the reason assigned. The argument regarding drawbacks was invalid, because almost the whole of the exports from the United States were domestic exports, and hence the double duty was not required. Besides, whatever duty was required of the East was also required of the West, as the West imported as largely from the United States.

Early in the Seventh Congress the usual bills were introduced for repeal and modification of the tariff. The bill for repeal was referred to the House Committee on Finance, December 10,

¹⁰⁸*Telegraph and Texas Register*, November 30, 1842.

1842.¹⁰⁹ It was reported favorably by this committee, December 17.¹¹⁰ It was passed to engrossment on the 27th, and failed of final passage on January 3, 1843, by a tie vote.¹¹¹ The vote on this measure indicated the closest battle we have yet seen on the tariff. The vote on reference to the committee on finance was 16 to 11; on engrossment the vote was 19 to 13; and the vote on final passage was 18 to 18. In each case it was a solid East favoring the bill with a coalition of high tariff and moderate tariff men uniting to cause its defeat.

The report of the committee, besides the conventional argument that the tariff was a great burden on the West and hardly felt by the East, advanced the argument that the tariff hindered immigration. The committee said that those who were intending to come to Texas, when they got to Arkansas and found that the Texas tariff was so high decided to remain there, and they believed that without a repeal of the tariff the population of Texas would be no larger five years from that time than it was then. They said that the tariff had driven merchants and capital from the country, there being only one store in all the counties lying upon the Sabine and the dry line from it to the Red River, a distance of three or four hundred miles. As a remedy the committee suggested a direct tax, though they had not worked out the details. A tentative suggestion was offered that a poll tax of \$4 a man would bring in all the revenue that the government needed, the number of men being estimated at 20,000 and the necessary revenue at \$80,000. They expected the repeal of the tariff duties to result in greater importation into Texas, and ultimately the smuggling of goods from Texas into the United States rather than the reverse.¹¹²

After the failure of the repeal bill, the moderates decided to push their measure for reduction. On January 3, 1843, the same day that the repeal bill was defeated, A. M. Lewis of Colorado County moved that the tariff be amended so that the rate on all articles would be 10 per cent ad valorem.¹¹³ This was

¹⁰⁹Seventh Congress, *House Journal*, 46.

¹¹⁰*Ibid.*, 74.

¹¹¹*Ibid.*, 154.

¹¹²*Ibid.*, 74-77.

¹¹³*Ibid.*, 154.

referred to a special committee, which on January 9, reported adversely, and a combination of free traders and high tariff advocates caused its defeat.¹¹⁴

It was charged during the consideration of these bills, particularly the one for repeal, that the actions of several of the eastern members showed, in spite of the fact that they were most loud in denunciation of the tariff, that they were secretly in favor of it, because the collector at Galveston had shown that the customs at Galveston could almost support the government.¹¹⁵ An analysis of the vote on the measure, however, will not bear out that charge. The first test of strength of the sections was in referring the bill to the finance committee, and the vote on this shows that the East was almost unanimous for immediate passage without referring, only two members from the East voting with the majority, while nine members from the East and two from the West voted against referring. In the vote on engrossment the solid East joined by a number from the West, some of whom voted against final passage, succeeded in passing the bill to engrossment. On final passage the vote shows that the same nine members from the East who had consistently favored repeal, joined by nine from the West who despaired of reduction, made up the 18 votes in favor of repeal, while the same two members from the East who had voted for referring and against engrossment, with sixteen from the West made the 18 votes against repeal. The eastern members opposing repeal were Matthews of Red River County and Hodge of Fannin County. The probable foundation for this charge was that free traders at this time steadily refused to enter into a compromise with the moderates and thus to force a reduction to a 10 per cent ad valorem rate.

During the following summer the tariff was the chief issue in the campaign for the election of congressmen. Prior to this time no evidence is found that a candidate's attitude on the tariff influenced his election or rejection, but the issue was still more clearly drawn in the election of the members of the Ninth Congress. A tendency on the part of the free traders is also found

¹¹⁴Seventh Congress, *House Journal*, 192.

¹¹⁵*Telegraph and Texas Register*, December 28, 1842.

during this campaign to recede from their contention for absolute free trade and compromise on a very low rate.

This campaign for reduction was led as usual by the *Telegraph and Texas Register*. From that time on, in the opinion of this paper, the cure for every evil connected with the tariff was a reduction to a 10 per cent level. If charges were made that the East was not paying its share of the government revenue, it said the tariff ought to be reduced; if charges were made with regard to smuggling in the East, the tariff ought to be reduced. As early as April 19, 1843, this campaign began when the editor in a diatribe against the tariff recommended that representatives be chosen to reduce the tariff.¹¹⁶ *The Red-Lander*, which before that time had been the chief advocate of free trade and defender of the East, showed a beginning of a change of heart when it endorsed the article in the *Telegraph and Texas Register*, saying that the argument regarding double taxation by payment of duties in Texas and on goods from the United States which were not allowed a drawback, would be more valid if it were not true that nine-tenths of the easterners did not pay any duties at all. The editor agreed that a tariff was necessary for revenue, but claimed that it was absurd to levy a tariff for any other purpose.¹¹⁷

One of the reasons urged against the tariff was that it led to smuggling. During this campaign for congress, the *Northern Standard* of Clarksville suggested as a remedy that the sheriff of each county be permitted, when he collected direct taxes, to swear each individual as to whether or not he had in his possession anything on which duties had not been paid. The *Telegraph and Texas Register* replied to this by saying that this would not remedy the matter. The only remedy, in its opinion, was the reduction of the tariff to such a figure that it would be more advantageous to pay the duties than to run the risk of smuggling.¹¹⁸

On July 5, the same paper announced that a large number of western congressmen would support a reduction of the tariff, and suggested that a spirit of compromise would succeed in bringing about a reduction. On July 26, it announced the conversion of

¹¹⁶*Telegraph and Texas Register*, April 19, 1843.

¹¹⁷From *The Red-Lander*, copied in *Telegraph and Texas Register*, June 14, 1843.

¹¹⁸*Telegraph and Texas Register*, April 26, 1843.

the *Galveston Civilian*, which had uniformly supported a high tariff, to the advocacy of reduction. On September 6, it accused the editor of *The Red-Lander* of changing his mind with regard to repeal because he had become convinced that the tariff was actually aiding the East while the West was bearing the entire burden of the government. In fact, in almost every issue some phase of the tariff question was taken up, usually ending with the assertion that the remedy for all evils was to reduce the tariff to a 10 per cent basis.

The only journalistic support for a high tariff at that time was given by *The Planter* of Columbia and *The National Vindicator* of Washington—the “Organ of the Executive at Washington,” as it was referred to by the *Telegraph and Texas Register*. *The Planter* favored a high tariff because it would stimulate manufactures at home, “which although they may not bear comparison with foreign fabrics, still are cheaply purchased, for they are purchased without credit.”¹¹⁹ *The National Vindicator* did not attempt to defend the system, but said that it was an experiment, and that another year was necessary to determine the success of the experiment.¹²⁰

The introduction in the House, December 18, 1843, by Darnell of San Augustine County of a bill to amend or repeal in part the Tariff Act of January 27, 1842, indicates that some of the eastern members had been won over to a moderate tariff, while the introduction on the 28th by Scurry, also of San Augustine County, of a bill to repeal the tariff laws and declare the ports of Texas free indicates that the East was divided.¹²¹ These bills were referred to the committee on Finance, which on January 3, 1844, presented a substitute in keeping with the idea of reduction.¹²² The committee substitute, with minor amendments, passed to engrossment on the 13th, after efforts were made to admit sugar, coffee, rice, steel, and salt, free of duty. The vote was 33 to 3.¹²³ The final passage of the measure took place on

¹¹⁹*Telegraph and Texas Register*, September 20, 1843.

¹²⁰*Telegraph and Texas Register*, January 3, 1844.

¹²¹Eighth Congress, *House Journal*, 40, 82.

¹²²*Ibid.*, 128.

¹²³*Ibid.*, 211.

the 16th, and the vote was 24 to 7.¹²⁴ Of the seven opposing the bill three were from the East and were uncompromising free-traders, while four were from the West and in favor of continuing the high tariff. The eastern members voting against reduction were Scurry of San Augustine, Edwards of Shelby, and Rowlett of Fannin. The western members opposing it were Erath of Milam, Head of Brazos, January of Jackson, and Paschal of Bexar. The bill passed the Senate on January 22 by a vote of 9 to 2,¹²⁵ one eastern and one western member opposing it. According to this bill the duties on coffee, brown sugar, salt, iron, steel, cotton-bagging, bale rope, and twine used in packing cotton, were fixed at 12½ per cent ad valorem. On other articles, with the exception of ardent spirits, wines, etc., which were to remain as before, the duties were fixed at 17 per cent ad valorem. This was a reduction from an average rate of 25 per cent to 15 per cent ad valorem.¹²⁶

The bill had now passed both houses by overwhelming majorities, and the only thing that would defeat it was the executive veto; and on account of the majority it was confidently hoped that the bill could be passed over the president's veto. The veto message was sent to Congress, February 5, 1844. President Houston said that the state of the Republic and the condition of the finances forced him to withhold his sanction to the bill; that the reduction of the imports could have no other result than to weaken the currency, and general debility would result; that direct taxes could not be depended upon; that out of \$49,000 in direct taxes levied for the preceding year only \$15,000 had been paid into the treasury; that the receipts from customs were the very life blood of the country; and that the time for free-trade had not come.¹²⁷ The veto message was read in both houses at a night session the same day, and attempts were made to pass the bill over the veto. The vote in the House was overwhelmingly for passage, 34 to 4, while it failed in the Senate. It lacked one vote of getting a majority when a two-thirds majority

¹²⁴Eighth Congress, *House Journal*, 234.

¹²⁵Eighth Congress, *Senate Journal*, 146.

¹²⁶*Telegraph and Texas Register*, February 7, 1844.

¹²⁷Eighth Congress, *House Journal*, 465 *et seq.*

was needed. In the House the East voted solid for passage over the veto, but in the Senate one eastern member supported the veto.¹²⁸

During the pendency of this bill in congress the *Telegraph and Texas Register* did not miss an opportunity to express its advocacy of its passage. On January 10, 1844, the editor insisted on a repeal of the five per cent discriminatory duty, for the reason that the United States had also announced the enforcement of discrimination against Texas, arguing that because of connections in the United States, because of long credit that could be secured there, and because of the little expense in visiting the American markets, it was more advantageous for the merchants to trade with the United States; that they were going to trade there, and this discriminatory duty was an extra burden and secured no concessions from the United States. On January 17, he urged direct taxes as against the tariff as the foundation for revenue, saying that within eight years the direct taxes might be made to yield all the revenue needed by the government. He also suggested the desirability of enquiring into the tariff of the United States and Mexico, and reducing the duties on articles which were charged high duties in those countries with the view of capturing the commerce of the Western Hemisphere from them. On the 24th he repeated that a low tariff might make the United States tributary to Texas, and even force the United States to abolish the tariff system. On February 12, he again urged the repeal of the "odious five per cent tax," saying that although Texas was paying a premium of five per cent for European goods, they had not amounted to one-sixth of those of the United States.

With the defeat of the tariff bill in the Eighth Congress only by the veto of the president, and with the near success in passing the bill over his veto, it became clear that the tariff question would be one of the main questions in the campaign for congress the following summer, and that it would even enter into the campaign for the presidency. And the question of the reduction of the tariff did become the leading issue, with the advocates of free-trade modifying their opinions to the extent that they were willing to accept any reduction to as low as 15 per cent ad valorem.

¹²⁸Eighth Congress, *House Journal*, 467. Eighth Congress, *Senate Journal*, 242.

The *Galveston Civilian* took the lead in demanding that only candidates in favor of reduction should be elected to congress. This is the paper which during the campaign of 1843 announced its conversion to reduction. Its recommendation is a peculiar mixture of free-trade and protection. Some of the main points suggested are as follows:

A plan is beginning to be agitated from sources entitling it to consideration, to run candidates for office at the approaching election, upon the principle of Free Trade, except so far as it may conflict with the few simple interests of our mechanics; that is, to retain something like the present heavy duties on leather, boots and shoes, saddlery, ready made clothing, and a few similar mechanical products which can be supplied by our own citizens, and to declare our ports open for almost all others *duty free*. This has been a plan long discussed here, and it has gained strength from the fact that the contrary policy has been so far defeated by the impossibility of enforcing it upon our northeastern frontier.

The article continued by suggesting that the entire tariff system be abolished if any other method of raising revenue could be devised.¹²⁹ About the same time the *Matagorda Dispatch* joined in this campaign, advising the voters to support for congress only those candidates who were in favor of free-trade.¹³⁰

There does not seem to have been a general effort to make the tariff an issue in the presidential campaign. The editor of the *Telegraph and Texas Register*, however, gave as his chief reason for opposing Anson Jones for the presidency, that he was Houston's candidate and could be depended upon to continue Houston's financial policy, chief of which was a high tariff.¹³¹ The *Red-Lander* at the same time was a strong supporter of Jones, though it had been the leading free-trade journal.

The importance of the tariff as an issue in the election of 1844, can be further indicated by noticing the announcement of the candidates for congress. Richard Roman, candidate for the senate from Matagorda, Jackson and Montgomery Counties, discussed the issues in the *Matagorda Dispatch* early in July. He

¹²⁹From the *Civilian*, in *The Red-Lander*, June 1, 1844.

¹³⁰*Telegraph and Texas Register*, July 24, 1844.

¹³¹*Telegraph and Texas Register*, June 26, 1844.

began by saying that he had agreed to give his opinion on all questions of importance, and then in his article he discussed nothing but the tariff, giving his reasons for favoring repeal. He mixed up a little of the conventional argument for free-trade with a little of the application of the argument to Texas.¹³² His ideas are not important except as they indicate the attitude of his section. As he was elected it can be presumed that his constituents were also for repeal. In June Henry W. Sublett, candidate for congress from San Augustine County, announced his platform. The tariff was the main question under discussion in his announcement. He favored free-trade, but he was doubtful about the advisability of its adoption at that time. He threw out a suggestion that the tariff be used for trading purposes, Texas granting free trade to those countries which would do the same for her.¹³³ He was defeated, and an advocate of reduction was elected. I am not prepared to say just how far their attitude toward the subject under discussion was the cause, but of forty members of the Eighth Congress only nine were returned, and only six of the twelve members of the Senate.¹³⁴

The stage was all set to carry through the program of the revisionists. An overwhelming majority had been returned in favor of revision. With few exceptions the journals were advocating reduction or repeal. A resolution had been passed in the House instructing the committee on finance to enquire into the policy of repeal, and if repeal was impolitic, into the policy of reduction.¹³⁵ At this juncture President Anson Jones sent his message to Congress which not only advocated the continuance of the tariff as a revenue measure, but also the adoption of incidental protection. With regard to the tariff he said:

We are in a great measure indebted to the tariff for the present healthy condition of our finances, and past experience proves that it is impossible that the government can subsist without it. No system of direct taxation can adequately supply its place. One of the most serious objections to the tariff system has heretofore

¹³²From *Matagorda Dispatch*, in *Telegraph and Texas Register*, July 25, 1844.

¹³³*The Red-Lander*, June 22, 1844.

¹³⁴*Texas National Register*, December 7, 1844.

¹³⁵Ninth Congress, *House Journal*, 34.

been, that its burthens have fallen unequally on different sections of the country. This objection, however, in consequence of the energetic endeavors of the Treasury Department, I am happy to say, has in a great measure ceased to exist.¹³⁶

In his inaugural address a few days before, Jones had favored a tariff sufficient to provide with certainty for the current expenses of the government, and for leaving a convenient amount of surplus in the Treasury at all times to meet any unexpected emergency, with incidental protection and encouragement to our agricultural and manufacturing interests.¹³⁷

The *Telegraph and Texas Register* could not resist this opportunity for another long article on the tariff. It said that Jones had expressed himself in favor of the tariff policy as it was in the United States, and that his argument in favor of a tariff on the ground of its incidental protection was a dangerous argument to recommend a tariff in Texas. It said that if there was one well founded argument against annexation it was the tariff policy of the United States; that agricultural products could not in the nature of things receive protection from a tariff; that a tariff on manufactures was at the expense of agriculture.¹³⁸

The committee on finance made its report on January 8, 1845. This committee consisted of three eastern members, George W. Smyth of Jasper County, John S. Ford of San Augustine County, and S. B. Jones of Bowie County; and three western members, John Dunn of Refugio County, William F. Sadler of Houston County, and S. L. Jones of San Patricio County. A considerable change in opinion is indicated by a unanimous report against any change in the tariff at that time. They said that it was not likely that imports would increase during the ensuing year, hence it was necessary to keep the tariff at its existing rates in order to support the government.¹³⁹ The House refused to accept this report, however, and on the 31st passed a bill to reduce the tariff to a level of 10 per cent ad valorem on all articles except wines and other spirits. The vote on the passage of this bill was 28

¹³⁶*Ibid.*, 68, 69. Jones was not warranted in saying that the objection on account of unequal enforcement had ceased to exist. There was never a serious effort to enforce collection in the East.

¹³⁷*Ibid.*, 29.

¹³⁸*Telegraph and Texas Register*, December 18, 1844.

¹³⁹Ninth Congress, *House Journal*, 170.

to 10, three eastern members joining seven western members in opposing it.¹⁴⁰ The bill passed the Senate unanimously the same day after the rate was raised from 10 to 15 per cent ad valorem.¹⁴¹

This bill provided for a gradual reduction of all tariff duties to a 15 per cent level. Nine months after its passage the first reduction of 5 per cent was to take place, and thereafter a quarterly reduction of 5 per cent until the 15 per cent level should be reached. Another provision, to take effect July 1, 1845, was for the repeal of the discriminatory duty of 5 per cent on goods brought in foreign bottoms from countries which had no treaty with Texas.¹⁴² The bill was vetoed by President Jones, however, on the ground that Congress had made no provision for the support of the government without the tariff system, and for the reason that the tariff was the most nearly just method of raising revenue.¹⁴³

During this session the representatives of the East took advantage of an opportunity to defend their section against the repeated charges of evading the tariff duties. Early in the session petitions for the modification of the tariff from citizens of Galveston, Houston, and other places, were referred to a special committee. The committee was unable to agree on a report, consequently three reports were submitted, one signed by the chairman, H. McLeod of Galveston, another by S. L. Jones of San Patricio, and the third by William R. Scurry of Red River and George W. Smith of Jasper. The chairman reported in favor of reduction on the old ground that it was unequally administered. He gave figures showing that the West paid at the average rate of \$23.46 for each voter, while the East paid at the rate of \$3.06. He gave for the preceding year the imports from Galveston as \$501,734, while for the same period the imports into San Augustine were only \$70,610. He said that the population of the two counties was about the same, and the difference in imports represented the amount of smuggling into San Augustine County.¹⁴⁴

¹⁴⁰*Ibid.*, 364.

¹⁴¹Ninth Congress, *Senate Journal*, 266.

¹⁴²*Telegraph and Texas Register*, February 12, 1845.

¹⁴³*Texas National Register*, February 15, 1845.

¹⁴⁴Ninth Congress, *House Journal*, 170.

The report of Jones agreed with the chairman that the tariff was unequally administered, but did not agree that the evil could be remedied at that time.¹⁴⁵

The report by Scurry and Smyth was the only effort, so far as I have been able to find, to deny the frequent charges that the East was evading the tariff; and this report did not deny that it was being evaded to a certain extent. The report said that it was a well known fact that several cargoes of cotton had gone down the Neches most of which had been sold in Galveston and return cargoes purchased there; and that these eastern sections swelled the importations into Galveston, and did not get any credit for it; that the western people were affected by the tariff only as they consumed articles subject to a tariff, and the same applied to the East; and finally, that the finances of the government would not admit of reduction—which was a rather strange doctrine for Scurry. Besides all this, these members of the committee hoped for annexation, which would cure the chief evils connected with the tariff.¹⁴⁶

The absorbing interest in the question of annexation caused the newspapers to pay little attention to the veto of the tariff bill. The tariff question, however, had become involved to a certain extent with the question of annexation during the campaign for reduction in the summer and fall of 1844. On November 13, 1844, the *Telegraph and Texas Register* said that the only journals opposed to annexation had based their objection on the tariff of the United States, while they had opposed any modification of their own tariff; that if annexed at all Texas would be annexed by the free-trade party in the United States, and that by annexation only one tariff would be paid. In defending the veto of the Tariff Act of 1845, the *Texas National Register* said that in case there was no annexation, Texas should use her tariff for trading purposes, "every reduction of duties on goods imported from any foreign country into the ports of Texas, would purchase a corresponding in our favor." For that reason, the tariff should remain at the existing high rate till the question of annexation was definitely settled. In case of annexation, the

¹⁴⁵Ninth Congress, *House Journal*, 291.

¹⁴⁶*Ibid.*, 288.

tariff of the United States would be more burdensome than that of Texas. The editor thought that Texas ought to remain independent, reduce the tariff to 10 per cent for countries which would grant the same privileges to Texas, and maintain the 5 per cent discriminatory duty. This policy, in connection with the high tariff policy of the United States would make Texas the leading commercial nation of North America and Galveston the leading port.¹⁴⁷

In the meantime a joint resolution had passed both houses of Congress in the United States, February 28, 1845, extending to Texas an offer of annexation, and President Tyler had despatched a messenger to Texas with the offer.¹⁴⁸ President Jones called a special session of the Texan Congress and a convention to pass on the offer of annexation. Congress met June 16, and the convention July 4, and the question was voted on, all but one member favoring annexation. It was submitted to the people and ratified by them on October 13, with only a few dissenting votes.¹⁴⁹ The final act admitting Texas as a state was passed on December 29, 1845, and the state government of Texas was installed on February 16, 1846.¹⁵⁰

The joint resolution had provided among other things that the state was to cede to the United States all public edifices, ports, and harbors, and other property and means of defenses, and to retain its public funds, debts, taxes, etc.¹⁵¹ In accordance with this agreement, the Secretary of the Treasury of the United States issued orders, December 31, 1845, creating Texas a collectorial district of the United States. The Texas authorities, however, assumed that a transfer of custom-houses and other property could not take place till the meeting of the First Legislature, hence they delayed putting the order into effect until February 16, 1846, when the custom-houses were turned over to the United States, and the tariff history of the Republic of Texas came to an end.¹⁵²

¹⁴⁷*Texas National Register*, March 15, 1845.

¹⁴⁸Garrison, *Westward Extension*, 153.

¹⁴⁹*Ibid.*, 155.

¹⁵⁰*Ibid.*, 156.

¹⁵¹*Ibid.*, 151.

¹⁵²Report of the Secretary of the Treasury, First Legislature, *Senate Journal*, ap. 15.

CHAPTER VII

CUSTOMS ADMINISTRATION

At the head of the administration of the tariff was the Secretary of the Treasury. It was his duty to oversee the general system, give instructions to the various collectors, and receive returns quarterly.¹⁵³ The president, however, had the right of appointment of collectors. Under the secretary of the treasury were the various collectors, deputy collectors, and inspectors. Collectors were required to make quarterly reports, with the exception of the collector at Galveston who was to make monthly reports after 1840.¹⁵⁴ After 1840 they were required to give bond in the sum of \$25,000 for the faithful performance of their duties and to insure honesty. They were empowered to enter ships for the purpose of inspection, of administering oaths in enforcement of payment of duties, and in case of infringement of the law it was the duty of the collector to bring suit or to prosecute.

The amount of salary, as well as the method of payment, varied with the different bills. The act of December 20, 1836, made no provision for salaries. The act of June 12, 1837, provided for a salary of \$2,000 a year, with an additional salary of one-half of one per cent of all fees above \$2,000.¹⁵⁵

On January 16, 1840, the fee system was adopted for all custom officials. Collectors were to receive compensation at the rate of $2\frac{1}{2}$ per cent on all duties up to \$20,000, and one-half of one per cent for all over for each quarter, but if duties were under \$20,000, the compensation was to be not more than \$500 quarterly. The deputy collector and clerk at Galveston was to receive \$2,000 a year, and all others \$1800 a year.¹⁵⁶ In 1842 this was changed. The maximum salaries allowed were for Galveston, \$1200; for Brazos and Calhoun, \$800; for Aransas, \$600. The first three were allowed to retain 10 per cent of the duties up to the maximum salary, and the fourth to retain 15 per cent,

¹⁵³ Act of December 20, 1836; Gammel, *op. cit.*, I, 1286.

¹⁵⁴ *Ibid.*, II, 655.

¹⁵⁵ *Ibid.*, I, 1314.

¹⁵⁶ *Ibid.*, II, 376.

and the excess in each case was to be turned into the treasury. Deputies received \$500, permanent inspectors, \$600, and other inspectors, \$2 a day. In order to insure the collection of duties in the eastern districts, it was provided that the secretary of the treasury should appoint as many deputies there as he saw fit, and that these deputies should receive commissions of 10 per cent on all duties until the commission should amount to \$500, but that they should receive no other compensation. The collectors for those districts were to receive 5 per cent of that collected by deputies and 15 per cent of that collected by themselves, up to \$800.¹⁵⁷ Shortly before this the collectors for the eastern districts had been suspended and the sheriffs of the various counties made collectors at a commission of 10 per cent.¹⁵⁸

In spite of the fact that two tariff bills had been enacted, there were no collectoral districts provided for until June 12, 1837. The act under the provisional government, December 12, 1835, had named six districts, but had not defined them or made provision for custom houses.¹⁵⁹ The act of January 12, 1837, provided for the following collectoral districts: Aransas district from the Rio Grande to the San Antonio River; Matagorda district from the San Antonio River to the mouth of Cedar Lake; Brazos district from Cedar Lake to Oyster Creek; Galveston district from Oyster Creek to Bolivar Point; Sabine district from Bolivar Point to the Sabine Bay, thence up to Lowe's Ferry; San Augustine district from Lowe's Ferry up the Sabine River to the thirty-second parallel of latitude, thence north to Red River. The president and the secretary of the treasury were instructed to locate custom-houses at the most suitable points in these districts.¹⁶⁰ Later acts created two other districts, Red River and Soda Lake. The Red River district was composed of the counties of Paschal, Bowie, Red River, Lamar, and Fannin.¹⁶¹ The Soda Lake district comprised all the counties of Red River and Bowie lying south of Sulphur Fork, with Harrison and Rusk,

¹⁵⁷Gammel, *op. cit.*, II, 736.

¹⁵⁸*Ibid.*, II, 623, 624.

¹⁵⁹*Ibid.*, I, 983.

¹⁶⁰*Ibid.*, I, 1314.

¹⁶¹*Ibid.*, II, 737.

and all of Nacogdoches lying west and north of Rusk County.¹⁶² Both of these districts were created in an effort to enforce collection in the East, the first, January 27, 1842, and the second, January 29, 1845.

Besides customs duties, tonnage duties and various fees of office were collected, and were reported in the various tariff reports. The act of December 15, 1835, provided for a tonnage of \$1.25 a ton on all vessels of more than 10 tons.¹⁶³ The first act under the constitutional government, December 20, 1836, provided for tonnage duties of 25 cents a ton on similar vessels.¹⁶⁴ The act of June 12, 1837, raised this to \$1 a ton, as it was in the United States.¹⁶⁵ On December 18, 1837, an act "to encourage steam navigation" was passed providing that steam vessels carrying ammunition should be exempt from tonnage duties, but this was repealed, January 10, 1839.¹⁶⁶

An act passed on January 4, 1841, provided that vessels built in Texas and flying her flag should be free of tonnage duties, but by an act passed on January 27, 1842, this policy was discontinued, tonnage duties of 60 cents a ton being required on sailing vessels, and 30 cents for steamboats.¹⁶⁷ In 1844 a discriminatory policy was adopted against the vessels of countries with which Texas had no commercial treaties, such vessels being charged tonnage duties of \$1 a ton, while reciprocal privileges were enjoyed with the treaty countries.¹⁶⁸ This was changed in 1845, to the extent that all vessels, Texan as well as Foreign, were required to pay tonnage duties of 62½ cents a ton, while the non-treaty countries were required to pay \$1, or as much as Texan vessels were charged in those countries.¹⁶⁹

Prior to 1840 the port charges were the same as in the United States at that time, but the act of February 5, 1840, fixed port charges and office fees as follows: for entrance and clearance of

¹⁶²Gammel, *op. cit.*, II, 1081.

¹⁶³*Ibid.*, I, 983.

¹⁶⁴*Ibid.*, I, 1286.

¹⁶⁵*Ibid.*, I, 1317.

¹⁶⁶*Ibid.*, I, 1428; II, 40.

¹⁶⁷*Ibid.*, II, 480; 737.

¹⁶⁸*Ibid.*, II, 1017.

¹⁶⁹*Ibid.*, II, 1109.

vessels of less than 100 tons, \$1.50; of more than 100 tons, \$2.50; every port entry, \$2; permits to land or load goods, bills of health and other documents, 20 cents; bond taken officially, permit to land for re-exportation, official certificates, debentures, 40 cents.¹⁷⁰ Receipts from these charges, as well as receipts from tonnage duties, with few exceptions, were included in the general tariff reports, and it is difficult to determine how much revenue was received from these sources.

Duties were payable in some form of currency as well as specie up to February 3, 1845, when an act was passed requiring payment of customs and tonnage duties only in gold or silver. The act of December 20, 1836, provided for the payment of duties in orders of the auditor,¹⁷¹ but as this law was a dead letter there were no receipts of this character. By the act of June 12, 1837, gold, silver, and such national bank paper as the president might direct were receivable in payment of tariff duties.¹⁷² This would seem clearly to prohibit the use of promissory notes of the government in payment of duties, especially since an act had been passed previously for funding the national debt, pledging the income from customs and direct taxation to meet the interest. On June 9, however, an act had been passed creating the promissory notes and making them receivable for all government dues. The secretary of the treasury, Henry Smith, instructed the collectors not to receive those notes in payment of customs, but he was ordered by President Houston to countermand this order, which he did, and the promissory notes were received in payment of all dues till December 14, 1837, when payment in promissory notes was prohibited, but change notes or treasury notes were created, which were received in payment of all dues of the government.¹⁷³ The acts of February 5, 1840, and 1841, allowed the payment in gold, silver, or promissory notes at par, and the act of January 27, 1842, allowed payment in gold, silver, and exchequer bills, as the new currency was called.¹⁷⁴ By an act

¹⁷⁰Gammel, *op. cit.*, II, 217.

¹⁷¹*Ibid.*, 1286.

¹⁷²*Ibid.*, I, 1313.

¹⁷³*Telegraph and Texas Register*, December 2, 1837; Gammel, I, 1322; Miller, *A Financial History of Texas*, 68.

¹⁷⁴Gammel, *op. cit.*, II, 209; 576; 734.

passed July 23, 1842, the exchequer bills were receivable at their market value for customs, direct taxes, and postage.¹⁷⁵ This led to inequality. The different collectors had the authority to determine the market price, so the market value varied at the different ports for the same time. Imports tended to seek those where the market value was the highest, which tended to unsettle conditions. This was repealed as applying to direct taxes and postage, January 16, 1843, effective February 1, so after that time customs were receivable in gold, silver, or exchequer bills at their market value until the passage of the act of February 3, 1845, prescribing that they should be paid only in gold and silver.¹⁷⁶

The act of June 12, 1837, provided for the bonding of duties. Factors or consignees whose duties amounted to \$500 or more for one importation were allowed to give bond for the whole amount, one-half payable in three months, and the other half payable in six months; duties under \$500 and over \$100 were to be paid in three months; and if under \$100 duties were payable only in cash.¹⁷⁷ This provision was repealed on May 9, 1838, however, the collector being required to sell the goods within 10 days if duties were unpaid.¹⁷⁸ It was re-enacted, January 15, 1839,¹⁷⁹ and continued in force until the adoption of the warehouse in 1840.

The Warehouse Act, February 5, 1840, authorized the secretary of the treasury to provide good and sufficient warehouses in the ports for warehousing imported goods and goods for exportation.¹⁸⁰ The Tariff Act of the same date provided for securing goods in the warehouses. By this act importers were allowed to leave part of their goods in the warehouse as security for the payment of duties, provided the value of goods left as security was three times the amount of duties on all goods. If duties remained unpaid at the end of three months, the collector was instructed to sell enough goods to pay the duties.¹⁸¹

¹⁷⁵Gammel, *op. cit.*, II, 812.

¹⁷⁶*Ibid.*, II, 866; 1140.

¹⁷⁷*Ibid.*, I, 1317.

¹⁷⁸*Ibid.*, I, 1490.

¹⁷⁹*Ibid.*, II, 165.

¹⁸⁰*Ibid.*, II, 226.

¹⁸¹*Ibid.*, II, 210.

From the standpoint of revenue the bonding system was very bad, though it might have been needed in the beginning in order to assist the merchants in starting business. By this system it was required that two citizens of the county should sign the bonds. There were a great many failures to pay the duties, and in a great many cases the bonds were worthless. This is indicated by the relation between the reported returns and the actual returns to the secretary of the treasury under this system. The first report of the secretary of the treasury showed a total net revenue, bonded and paid in, of \$278,134.56, up to September 30, 1838, while only \$133,649.88 were paid into the treasury. This difference of \$144,488.68 included the cost of construction of custom-houses which was not given, but a large part of it was bonded.¹⁸² The report of the secretary of the treasury for the fiscal year ending September 30, 1839, showed in suit \$40,000 of uncollected bonded duties,¹⁸³ while the report for the fiscal year ending September 30, 1840, showed \$188,853.13 as remaining unpaid from 1838 to 1839.¹⁸⁴ There are no reports showing how much of this was ultimately lost, but it was probably a good percentage. The warehouse system was an improvement over the bonding system, though it caused delay in actual payment of duties. The returns from sale of goods secured in warehouses kept dribbling in till 1847, when the report of the treasurer showed over \$50,000 received from customs. This included an item of \$486.37 in promissory notes, bonds, and interest.¹⁸⁵

There were other miscellaneous acts for administering the tariff system. By the act of June 12, 1837, all shipmasters were required to report and give manifest of all goods on their vessels within 24 hours on penalty of \$500 for failure to report, and of \$1000 for false manifest, with disqualification to again enter the port.¹⁸⁶ After February 5, 1840, they were required to report within 24 hours, but were allowed 48 hours to submit a manifest

¹⁸²Report of Secretary of the Treasury, in *Telegraph and Texas Register*, November 17, 1838.

¹⁸³*Ibid.*, December 18, 1839.

¹⁸⁴Fifth Congress, *House Journal*, ap. 406.

¹⁸⁵Report of the Treasurer, Second Legislature, *House Journal*, 39.

¹⁸⁶Gammel, *op. cit.*, I, 1315.

of their cargo. The penalty for violation remained the same.¹⁸⁷ In determining the original cost of imported goods the act of February 5, 1840, required that the invoices be signed by the consul at the point of shipment, and if there were no consul, two reputable merchants were allowed to fix the value, provided it was certified to by the justice of the peace. By an act passed February 1, 1841, consular certificates were no longer required, but appraisers were appointed to value the goods. The appraisers were regular officers, and were paid \$5 a day.¹⁸⁸

Smuggling was regarded as a misdemeanor, and the chief penalty was the confiscation of goods and the vehicles or vessels in which smuggled goods were transported. In fact, except the bare statement that it should be regarded as a misdemeanor, no other punishment was fixed. To encourage information with regard to smuggling, when confiscated goods were sold half went to the treasury and half to the informer. The collectors were given the right in 1840 to summon any citizen to assist in seizing smuggled goods, the penalty for refusal being a fine of \$200, or to call on the sheriff of the county for assistance, the penalty for refusal being a fine of \$300. Also in 1840 the collectors were permitted to secure row boats in order to prevent the evasion of duties. I have found no evidence of criminal prosecution for violation of the tariff laws, nor of civil suits over seized goods. The penalty for resisting seizure was \$500, which was heavier, it seems, than for the act of smuggling.¹⁸⁹

CHAPTER VIII

A GENERAL VIEW OF THE TARIFF SYSTEM

If there was any consistent policy with regard to the tariff, it was that the only basis on which a tariff should be laid was for revenue. Most of the representatives, as well as two of the presidents, were from the South, and it can be presumed that the natural bent of their minds was toward free-trade or a tariff for revenue only. The other president was from the manufacturing

¹⁸⁷Gammel, *op. cit.*, II, 211.

¹⁸⁸*Ibid.*, II, 211; 623.

¹⁸⁹*Ibid.*, I, 1315; II, 217, 218.

section in the United States, and it could be presumed that he would have a natural bent toward protection. And the attitude of each president is the attitude of the section from which he came with some modification due to the local circumstances. Houston was from Tennessee, and he was not so certain with regard to free trade, though he favored it ultimately; but he was rather certain that a tariff was necessary for purposes of revenue, and that it was more equitable and just than a direct tax.¹⁹⁰ President Lamar was from Georgia, and he was strongly for free-trade. He had been a member of the States' Rights Party in Georgia during the strenuous struggles over the tariff in the United States from 1828 to 1833, and during part of that time he had edited a newspaper advocating free-trade.¹⁹¹ It was not strange that he should continue to advocate free-trade in Texas, especially since that policy was supposed to assist in securing recognition. On account of the need of a tariff for revenue, however, he advised a continuation of the tariff, though in 1840 he approved the free-trade tariff when it seemed that a direct tax could be substituted.¹⁹² President Jones was from Massachusetts, and he favored a tariff for revenue, with incidental protection.¹⁹³ All the presidents united in maintaining that the tariff was necessary for revenue, and when irresponsible members of congress insisted on its repeal, the responsibility which the president was under of maintaining the existence of the government and a semblance of credit abroad forced him into the support of a system which, though unnatural for an agricultural community, was necessary for the support of the government.

Aside from loans and paper money the actual sources of revenue for the support of the government were customs duties, direct taxes, sale of city lots, sale of land, and fines and forfeitures. A comparison of returns from each of these sources will show that the tariff was the foundation of the revenue throughout the life of the Republic. The first report available for the period from the beginning of the Republic to September 30, 1838,

¹⁹⁰Houston's message to Congress, in *Telegraph and Texas Register*, December 29, 1841; veto message, Eighth Congress, *House Journal*, 465 et seq.

¹⁹¹Prospectus of the *Columbus Enquirer*; *Lamar Papers*, 73.

¹⁹²Lamar's message to Congress, Third Congress, *House Journal*, 180, 181.

¹⁹³Ninth Congress, *House Journal*, 29.

shows that of a total revenue of \$260,780 paid into the treasury, customs contributed \$133,649.88,¹⁹⁴ or a little more than 51 per cent. For the fiscal year ending September 30, 1839, the percentage was larger. Out of a total revenue for that year of \$187,791, customs contributed \$122,573.35, or 65 per cent.¹⁹⁵ The same ratio was maintained until 1842, when, beginning with that date, the average was 83 per cent. The period when the tariff yielded the greatest amount was from August 1, 1843, to February 16, 1846, when the yield was \$340,506.40. This was also the period when the receipts from other sources were at a minimum, the income from direct taxes being only \$27,561, from licenses \$15,140, and from miscellaneous sources \$1815, making the receipts from customs 88.4 per cent of the total revenue.¹⁹⁶ The cause for this excess of customs over other forms of revenue is that in a primitive community they are about the only tax that can be assessed and collected with any notable success. They are easy of administration; being indirect taxes they are not felt as are direct taxes. After 1842 the payment of direct taxes became negligible. The Lamar administration had substituted the direct tax in a large measure for the tariff, but in 1842, the Houston administration returned to a low direct tax, and this reduction, together with the difficulty of collection, caused direct taxes to yield only 12.8 per cent of the revenue of the government.¹⁹⁷

Another policy which was maintained throughout the period was to tax necessities lightly and luxuries at a heavier rate. The only exception was during 1840 and 1841, when a uniform ad valorem duty of 15 per cent and 45 per cent was levied on all articles except wines and spirits, upon which a high specific duty was laid. During this period the rate was so low that the tariff was not a burden to anybody. There was an effort made in 1841 to admit such necessities as flour, sugar, salt, coffee, lard, pork, bacon, iron and steel, free of duty, but on account of the need

¹⁹⁴Report of the Secretary of the Treasury, in *Telegraph and Texas Register*, November 17, 1838; Miller, *A Financial History of Texas*, 391; Gouge, *The Fiscal History of Texas*, 270.

¹⁹⁵Report of the Secretary of the Treasury, in *Telegraph and Texas Register*, December 18, 1839; Miller, *loc. cit.*; Gouge, *loc. cit.*

¹⁹⁶Miller, *op. cit.*, 391.

¹⁹⁷*Ibid.*, 50.

for revenue the amendments were rejected.¹⁹⁸ Before 1840, these articles had been admitted free, and after 1842, they were admitted at a moderate rate.¹⁹⁹

I have indicated the repeated charges that the East was not sharing its part of the burdens of government, charges made by western newspapers and representatives. An examination of the comparative returns from the various districts will show some ground for the charges. For the period from the beginning of the Republic to September 30, 1838, out of a total reported net receipts of \$278,134.56, the two eastern districts, Sabine and San Augustine, reported only \$37,630.32, and nothing was actually paid into the treasury from these districts. The revenue paid in was as follows: Galveston, \$70,119.20; Brazos, \$31,686; Matagorda, \$31,844.68.²⁰⁰ For five quarters ending March 31, 1841, the total receipts reported were \$203,820.42, and of this San Augustine reported a net return of \$6,534.82. In Sabine, the other eastern district, there were no net returns, the receipts being \$5,062.01, and the expenses, \$8,717, making a deficit of nearly \$3000.²⁰¹ For the nine months ending October 31, 1842, the East contributed \$10,536.73 out of a total of \$86,937.49. For the year ending July 31, 1844, the East contributed \$13,715.72 out of a total of \$177,860.85, and from that time until October 31, 1845, the period of greatest importation, the three eastern districts paid \$26,420.90 out of a total of \$340,506.00.²⁰² Reports are lacking for other periods, but these are sufficient to indicate that the East was evading the tariff duties. And as the tariff was the foundation of the finances, it seems that the West was justified in charging that the East was in a large measure escaping the burdens of the government.

On January 25, 1845, Scurry and Smyth had come to the de-

¹⁹⁸Fifth Congress, *House Journal*, 686, 687.

¹⁹⁹Act of December 18, 1837; Gammel, *op. cit.*, I, 1490; Act of January 27, 1842, *Ibid.*, II, 734.

²⁰⁰Report of the Secretary of the Treasury, in *Telegraph and Texas Register*, November 17, 1838.

²⁰¹Report of the Commissioner of Revenue, in *Telegraph and Texas Register*, August 4, 1841.

²⁰²Report of the Secretary of the Treasury, in *Telegraph and Texas Register*, February 1, 1843; January 8, 1845; First Legislature, *House Journal*, ap. 24.

fense of the East, saying that a great many of the merchants of their section carried their goods to Houston and Galveston, and received in return goods on which duties had been paid.²⁰³ There was very likely some trade of this character, but not enough to explain the great discrepancy in returns. The facilities for smuggling, the mild punishment for smugglers when caught, made this illegal trade very profitable. And it is not reasonable to suppose that the merchants of the East would go to the expense of taking their cargoes to Houston or Galveston and paying the comparatively high duty on their return cargoes, when they could make a better profit by smuggling goods across the Sabine or the border to the North, especially since the objection to any tariff in that section enabled a man to maintain social standing while engaged in illicit trade.

The imports were mostly from the United States and the exports to the United States. At another point in this discussion I have shown the failure of the 5 per cent discriminatory duty of January 27, 1842, to decrease the importation from the United States. An explanation for this may be found in the character of imports for the fiscal year 1845, when there was very active trade with foreign countries. The total value of imports for that year was \$1,204,370.32. It was made up of the following articles: distilled spirits, \$55,832.40; tobacco, \$34,476.30; breadstuffs, \$54,342.33; meats, \$9,031.83; sugar, \$42,655.42; salt, \$8,143.68; associated groceries, \$115,536.89; and associated merchandise, \$878,346.52. The scheduled articles would here be almost wholly from the United States regardless of the tariff, and that it was most profitable to purchase in the United States is indicated by the fact that of these imports the United States furnished \$1,151,733.21, or 95.6 per cent of the whole.²⁰⁴ A glance at the table in the appendix will show a similar result for the years preceding.

The period of greatest importation and the least exportation was from 1835 to 1840. Gouge points out that this was due to the fact that paper money encouraged imports and discouraged

²⁰³Ninth Congress, *House Journal*, 288.

²⁰⁴Report of the Secretary of the Treasury, First Legislature, *House Journal*, ap. 32.

exports.²⁰⁵ This period was the period of chief dependence on paper money, and though the money depreciated until it was almost worthless, it was still accepted in payment of duties at par, thus reducing the tariff rates to only a small per cent of their nominal rate. The importations during this period amounted to \$4,625,843.52, while exports amounted to \$678,242.24. The increase in value of exchequer bills in 1842 due to their scarcity, and the passage of the act requiring that they be received at the market value in 1843, caused payment in sound money. For the period beginning August 1, 1842, and continuing to October 31, 1845, importations amounted to \$2,362,078.67, and exports to \$1,870,103.09.²⁰⁶

Though there were frequent complaints of the burden of the tariff, the rates were never really high. With the exception of the tariff bill in 1840 the nominal average of which was 15 per cent and the real average 3 per cent, the general average of the tariff rates was between 20 and 25 per cent. The average for the period up to September 30, 1838, was 19.3 per cent, but this is the period when a large number of the necessities were admitted free. The average rate on dutiable goods cannot be determined, but it was certainly higher than that. The burden, however, fell on those who were best able to bear it. The highest average reported was for the year ending July 31, 1844, when importations of \$686,503.03 yielded a gross revenue of \$201,413.30, or an average of 26.6.²⁰⁷

²⁰⁵Gouge, *The Fiscal History of Texas*, 278.

²⁰⁶*Ibid.*, 278.

²⁰⁷Report of the Secretary of the Treasury, in *Telegraph and Texas Register*, January 8, 1845. The secretary remarked that this high average was due to the 5 per cent augmentation on goods in American vessels, and that six-sevenths of the imports were from the United States; that if Texans had seen fit to trade with England or France the average would have been only about 22 per cent.

APPENDIX A

The following table giving the revenues of the Republic will show the importance of the tariff in the fiscal system.²⁰⁸

Year.	Direct Taxes.	Customs.	Licenses.	Land and Land Dues	Miscellaneous.	Total.
1836-1838.....	\$ 100,455	\$ 133,649	.....	\$ 21,123	\$ 5,552	\$ 260,780
1839.....		122,160			65,621	187,791
1840.....	53,180	164,789	\$ 16,922	218,250	141	453,235
1841.....	179,503	151,990	42,686	68,025	429	442,635
1842-1844.....	80,335	360,177	16,503		502	457,518
1844-1846.....	27,561	340,506	15,140		1,815	385,023
Totals.....	\$ 440,984	\$1,273,280	\$ 91,251	\$ 307,398	\$ 74,060	\$2,186,982

NET REVENUE FROM EACH DISTRICT FOR THE PERIOD INDICATED.

District.	To Sept. 30, 1838.	Nine months to Oct. 31, 1842.	Year ending July 31, 1844.	Fifteen months following.
Galveston.....	\$ 140,110 77	\$ 65,103 46	\$ 141,290 96	\$ 256,401 19
Brazos.....	38,076 00	6,586 10	1,928 85	7,742 56
Matagorda.....	42,346 74	4,721 20	19,639 90	50,607 21
Aransas.....			1,184 72	7,833 01
Sabine.....	123 30	106 53	527 68	5,026 60
San Augustine.....	37,477 02	3,431 56	7,077 12	14,120 20
Red River.....		6,998 64	6,110 92	7,274 09
Soda Lake.....				866 54
Totals.....	\$ 278,134 56	\$ 86,973 49	\$ 177,860 85	\$ 349,871 40

The apparent discrepancy in returns as shown in the first and second tables is explained by the fact that the first represents the receipts actually paid into the treasury, while the second represents the returns reported by collectors. Some of this was bonded and some of it was secured in warehouses.

APPENDIX B

IMPORTS INTO THE REPUBLIC OF TEXAS.

From September, 1835, to September, 1838.....	\$ 1,740,376 87
From September, 1838, to September, 1839.....	1,506,897 67
From September, 1839, to December, 1840.....	1,378,568 98
From December, 1840, to March, 1841.....	291,671 87
From March, 1841, to July, 1842.....	No returns

²⁰⁸Miller, *A Financial History of Texas*, 391; Gouge, *The Fiscal History of Texas*, 270; reports of secretaries of the treasury, *Telegraph and Texas Register*, November 17, 1838, December 18, 1839, October 6, 1841, August 4, 1841, February 1, 1843, January 8, 1845; *Third Congress, House Journal*, ap. 406; First Legislature, *House Journal*, ap. 24. These references comprise the total available sources for the revenue of the Republic. Unless a different reference is necessary, these will serve as authority for the tables that follow.

From July, 1842, to July, 1843.....	\$ 471,205 32
From July, 1843, to July, 1844.....	686,503 03
From July, 1844, to October, 1845.....	1,204,370 32

EXPORTS FROM THE REPUBLIC OF TEXAS.

From September, 1835, to September, 1838.....	\$ 183,323 00
From September, 1838, to September, 1839.....	274,518 09
From September, 1839, to December, 1840.....	220,401 15
From December, 1840, to March, 1841.....	92,795 67
From December, 1841, to July, 1842.....	No returns
From July, 1842, to July, 1843.....	415,768 75
From July, 1843, to July, 1844.....	615,119 34
From July, 1844, to October, 1845.....	839,215 00

SOURCE OF IMPORTS FOR THE YEARS INDICATED.

From	Year ending July 31, 1843.	Year ending July 31, 1844.	Fifteen months to Oct. 31, 1845.
United States.....	\$ 412,983 03	\$ 593,225 14	\$ 1,151,733 21
Great Britain.....	32,474 57	51,059 89	9,466 73
France.....	7,425 17	5,584 58	2,048 00
Germany.....	12,592 73		
Spanish West Indies.....	5,729 82	148 87	11,184 65
British West Indies.....		3,624 10	3,722 08
Belgium.....		3,516 48	20,634 01
Hanse Towns.....		27,494 54	5,113 94
Austrian Adriatic.....		1,185 86	
Yucatan.....		663 57	
Sardinia.....			467 70
Totals.....	\$ 471,205 32	\$ 686,503 03	\$ 1,204,370 32

DESTINATION OF EXPORTS FROM THE REPUBLIC OF TEXAS.

To	Year ending July 31, 1843.	Year ending July 31, 1844.	Fifteen months to Oct. 31, 1845.
United States.....	\$ 281,342 64	\$ 249,151 62	\$ 486,327 16
Great Britain.....	76,028 64	205,345 34	103,484 10
France.....	260 00	15,425 00	8,630 00
Germany.....	41,710 85		
Spanish West Indies.....	16,426 62	1,031 24	23,262 25
Hanse Towns.....		112,095 46	85,581 16
Austrian Adriatic.....		29,013 85	13,468 97
Yucatan.....		3,047 12	
Belgium.....			49,434 48
British West Indies.....			1,455 04
Sardinia.....			57,551 88
Totals.....	\$ 415,768 75	\$ 615,119 34	\$ 829,215 04

The explanation for the comparatively large amount of exports into England and the Hanse Towns is to be found in the nature of the exports. By far the most important article of export was cotton, which with peltries and a few miscellaneous articles comprised the whole. For the year ending July 31, 1844, there were 18,367 bales of cotton exported at a value of \$580,156.12; peltries valued at \$17,476.99; and all other exports valued at \$10,534.06, making up the total for domestic exports of \$608,167.17. The

value of foreign exports for that year was \$6,952.17. For the fifteen months ending October 31, 1845, the exports consisted of 31,227 bales of cotton valued at \$747,436.15; hides and peltries, \$37,287.50; and all other domestic exports, \$33,228.85, making a total of domestic exports of \$817,952.50. The export of foreign articles amounted to \$21,262.50, making the total exports for that period \$839,215.00. Statistics for other years are lacking.

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MISSISSIPPI AND THE INDEPENDENCE OF TEXAS

JAMES E. WINSTON

While it is no doubt true that the people of the South, and especially those of the lower South, shared the indifference of the rest of the United States in general in regard to Texas before the middle of 1835, there is abundant testimony of a speedy revulsion of feeling on the part of the South in consequence of the exciting events which took place in Texas in the fall of 1835 and the spring of 1836. Interest in the affairs of Texas was by no means confined to those states which, by reason of their location and ties of blood, naturally felt keenly for their fellow countrymen who were struggling for independence against the domination of the Mexican government. A glance at the Texas revolutionary muster rolls reveals the geographically composite character of the volunteers who for one reason or another flocked to Texas. For instance, the New Orleans Greys, Captain Wm. G. Cooke, contained among forty-three members representatives of twelve different states and five foreign countries; in Captain Thos. H. Breece's company there were nine states represented, and in addition, Germans, Englishmen, and Irishmen fought side by side at the siege of Bexar.¹

Had it not been for the sympathy and material aid extended the Texan cause by Mississippi and her sister states, the story of the struggle for independence might well have had a different ending. Representative men and alert editors were not slow to detect in the Southern states a widespread interest in the events that were happening on the southwestern border. From the outbreak of the struggle against Mexico until Texas was finally incorporated within the American union, the rulers of Texas looked to the people of the South for sympathy and support. Writing from Nacogdoches in November, 1835, C. A. Parker observed: "The State of Mississippi must aid us particularly in this crisis."² At about the same time there appeared in the Mississippi papers

¹*Muster Rolls*. General Land Office of Texas.

²*Clinton Gazette*, December 12, 1835.

an appeal for aid signed by the brother of Robert J. Walker. After summarizing the events in Texas he concludes with the statement, "They need the aid of the people of the United States. They have no arms but rifles; they want artillery, muskets, ammunition and men. These they must get from the United States. A stirring appeal should be made."³ As events were to prove, the appeal was not made in vain. "So far as I can see," wrote Childress to Burnet, "the South and West are kindling into a blaze upon the subject."⁴ This was in the spring of 1836. Just three months later Alexander Jones wrote Lamar as follows: "I do believe if the invasion of Mexico and the conquest of the City of Mexico was held out as an inducement for volunteering in such an expedition, 10,000 choice troops could be raised in the western country alone for that object."⁵ Later when rumors of the invasion of Texas by the Mexicans kept finding their way into the United States, we find Henry S. Foote writing thus to Lamar: "If Texas is in danger of an invasion from Mexico, I can raise 1000 or 2000 men here in Mississippi."⁶ Hunt, writing to Henderson from Vicksburg about the middle of April, 1837, overestimated the zeal of the South in regard to Texas: "So ardent," said he, "are the Southern States to procure the annexation of Texas to plish it, will produce a dissolution of the Union."⁷ Even Webster was apprehensive of an attack upon Texas by Santa Anna, but "that Texas must succeed he had no doubt for whenever the struggle became warm Texas would be sure to get a large force from the Southwest."⁸ To the editor of the *Memphis Enquirer* the excitement in favor of Texas throughout Mississippi and Louisiana was "almost incredible." He predicted that money and volunteers would be on their way to Texas in the spirit of Southern liberality. The news of the fall of San Antonio called forth this comment: "The feelings of the brave throughout Mississippi and Louisiana have burst forth in a volume that nothing

³Woodville Republican, November 14, 1835.

⁴Garrison, *Diplomatic Correspondence of Texas*, I, 85. Cf. *Ibid.*, 173; Niles' Register, LXII, 98.

⁵MS. Lamar Papers.

⁶*Ibid.*

⁷Garrison, *Diplomatic Correspondence of Texas*, I, 208.

⁸*Ibid.*, I, 616.

but blood, liberty or death can appease.”⁹ This was newspaper rhetoric pure and simple—in fact, there were journals in Mississippi that rebuked the apathetic attitude of the people in regard to Texas. But on the whole Texas feeling ran high in Mississippi, especially at times when relations between Texas and Mexico or England or the United States assumed an acute stage.

Public Meetings of Texan Sympathizers .

Two Mississippians of note, General Felix H. Huston and Henry S. Foote, were participants in the earliest organized attempt to foster public sentiment favorable to Texas. This meeting was held at New Orleans, July 14, 1835, and was presided over by Huston, the resolutions being presented by Foote. Dr. Jas. F. Maclin, of Vicksburg, was secretary of the meeting.¹⁰ The first of these, as will be seen below, played a conspicuous part in the Texas revolution; General Foote, prominent in the political history of his own State, and characterized by Claiborne as a bold and fearless man, was an active sympathizer with the people of Texas in their struggle for independence and desire for annexation. An avowed expansionist, he advocated as senator “extending American liberty” over Central America. In Mississippi, as elsewhere, the first meetings that were held for the purpose of furthering the cause of Texan independence occurred in the fall of 1835. As might be expected the citizens of Natchez, around which city clusters so much of the history of Mississippi, evinced a lively interest in the affairs of Texas. The newspaper accounts of the incipient revolution resulted in the usual “large and respectable meeting” at the courthouse in October of that year. Upon motion of General Felix Huston, John A. Quitman was called to the chair, and Wm. H. Chaille appointed secretary. Addresses were delivered by Huston and George Winchester. A lengthy preamble, with accompanying resolutions, was adopted. These recited the story of our own struggle for independence, and alluded to the struggles of Poland and Greece; deep sympathy was expressed for the Texans in the contest in which they were engaged with Santa Anna. A committee was appointed for the

⁹Issue of April 12, 1836.

¹⁰THE QUARTERLY, IV, 145.

purpose of furthering the cause of the Texans.¹¹ At the request of a Texas committee appointed at a public meeting held at the courthouse in Natchez on December 7, the manager of the Natchez theatre set apart Wednesday of the following week for the "benefit of the patriots of Texas." On this occasion, Mr. Charles H. Eaton, a "tragedian of great celebrity," volunteered his services.¹² In this same city in the following April there was held a meeting of the citizens for taking into consideration the situation in Texas. At this assembly Captain John A. Quitman presided, and General Felix Huston was secretary. An address was delivered by the Hon. Jesse Bledsoe "in an impassioned strain of eloquence." He was followed by Colonel Childress, a member of the Texas convention. Resolutions in the usual style followed, these being offered by Wm. Vannerson. One reads "That the proud dictator, Santa Anna, like the fort—Almo [Alamo] *must* fall. And the purple current of valiant gore that has moistened the plains in the cause of liberty, must be avenged." A committee was appointed to solicit subscriptions in aid of the "Texians," and for the benefit of those volunteering in the cause from the State of Mississippi.¹³

The citizens of Vicksburg responded generously to the appeal of Texas for aid, contributing the sum of \$3,500.¹⁴ Yet it was felt that Mississippi was not doing what it should in behalf of the struggling Texans. In the *Woodville Republican* for April 23, 1836, there was printed an urgent appeal for volunteers, money and horses with which to equip an expedition for Texas. One writer reproached the citizens of Wilkinson county for their indifference to the fate of Texas, especially in view of the fact that the border was menaced by a blood-thirsty foe. In the first

¹¹This committee was composed of F. Huston, George Winchester, S. A. Plummer, James Stockman, and A. I. Coffin. *Natchez Courier in Clinton Gazette*, October 31, 1835.

¹²*Mississippi Free Trader*, December 11, 1835.

¹³This committee was composed of John M. Ross, Wm. P. Mellen, George R. Girault, Wm. B. Duke, A. I. Coffin and A. L. Gaines. *Woodville Republican*, April 9, 1836. Cf. Claiborne, *Life of Quitman*, I, 145, who gives ten as the number of the committee: the additional names are Wm. Parker, Wm. Vannerson, R. W. Abbey, R. Stockman. After taking an active part in the Texas revolution John M. Ross is said to have finally succumbed to the scourge of the tropics.

¹⁴*Woodville Republican*, April 23, 1836.

week of October, 1835, a meeting was held at the courthouse at Woodville to form a company of volunteers for Texas; on November 10 a Texas meeting was held at the Railroad Hotel in the same town. Some two weeks later an adjourned meeting of the citizens of Wilkinson County took place at the courthouse. The call for this meeting was signed by Dr. Geo. C. McWhorter, chairman of the former meeting, and by Jas. M. Downs, secretary. The meeting was addressed by R. W. Webber, who offered a set of resolutions. In these attention was called to the inviting field offered by Texas for all kinds of enterprises; those intending to emigrate were advised to take along a good gun, a brace of pistols, and other weapons for procuring wild game. A determination to proceed to Texas on December 18 was expressed, and volunteers were invited to accompany the emigrants. It was not their intention to be deterred by revolutionary measures, "and if such struggle shall exist upon our arrival, we will do our duty."¹⁵ On April 9, 1836, a meeting of Texan sympathizers was held at Port Gibson and a liberal subscription raised.¹⁶ In the same month a similar meeting took place at Jackson. An address was made by Col. T. B. J. Hadley, resolutions of the usual kind adopted, and a committee empowered to raise subscriptions.¹⁷ In the following month a meeting was held at the courthouse of Warren County in the interest of the Texan cause.¹⁸ The interest of the people of Mississippi in the affairs of Texas was further stimulated by accounts of inducements held out to prospective emigrants in the form of land. In the *Woodville Republican* of January 23, 1836, appeared a communication signed by Austin, Archer, and Wharton promising volunteers the same pay and emoluments as were received by troops of the regular United States army, and in addition 640 acres of land.

The interest of the people of Mississippi was not confined to the material welfare of the inhabitants of Texas. At Natchez a

¹⁵*Ibid.*, October 30, November 7, December 5, 1835.

¹⁶*Port Gibson Correspondent*, April 23, 1836.

¹⁷*Grand Gulf Advertiser*, April 28, 1836. This committee was composed of J. and S. Smith, H. R. Hall, J. S. Fall, W. P. Stone and Z. P. Wardell. Colonel Hadley was commended by Thos. J. Rusk for his warm interest and exertions in the cause of Texas. *The Mississippian*, July 22, 1836.

¹⁸Rather, *Recognition of the Republic of Texas by the United States*, 213.

meeting was held and the sum of \$392 raised for the purpose of supporting a mission to Texas undertaken by the Rev. Robert Alexander, of the Methodist Church.¹⁹

Mississippi Volunteers in Texas

Houston's call to arms appeared in the Mississippi newspapers soon after the outbreak of hostilities, and it was not long before volunteers were leaving for Texas. At the little town of Clinton the citizens were enlisting for service in October.²⁰ The *Clinton Gazette* in its issue of October 31, 1835, printed a ringing editorial on Texas. The editor expressed the conviction that the men of that country would "never basely cower to the dictatorial mandates of a lawless tyrant." A company was quickly organized at Clinton to start for Texas. Among those who enlisted were Wm. B. Dameron, Geo. B. Thayer, David Shelby, Hutchins M. Pittman, J. D. Jennings, Jno. W. Allen, John Tilden, Jno. M. White, Thos. B. Cox, W. C. W. Baker, and a man by the name of Roberts. At Raymond, a little town about six miles from Jackson, the company was hospitably entertained and presented with a stand of arms; here additional recruits joined the original contingent. "Hinds county will suffer no other section to outdo her in this noble zeal," was the comment of the *Gazette*. Raymond is noteworthy as being the spot where Robert J. Walker made his *début* in Mississippi politics in September of this year. The military spirit of the citizens of Clinton was further evinced by the organization of the "Clinton Guards" in December under the command of Captain Geo. W. House.²¹ A certain pathetic interest attaches to the little company that went out from Clinton. In April of the following year the mother of one of the volunteers was seeking information of the whereabouts of her son. The following letter written to General Quitman has been preserved in the *Claiborne Correspondence*:

Clinton, Miss., April 5, 1836.

Hon. J. A. Quitman.

Dear Sir: Having learned that you have embarked in the cause of suffering Texas, I take the liberty of addressing you a

¹⁹*Mississippi Free Trader*, June 24, July 1, 1837.

²⁰*Clinton Gazette*, October 24, 1835.

²¹*Ibid.*, December 26, 1835.

line with the hope that you may be able to relieve the anxiety of a mother, whose last earthly hope has been devoted to the same cause. You may have known that my son was among the volunteers who left this place in October last. I have heard from him occasionally by individuals who have returned, but have only received one letter, and that was dated immediately after his arrival.

The late distressing intelligence from San Antonio has filled me with inexpressible apprehensions, and I beg you, my dear sir, to endeavor to aid me, if possible, in ascertaining whether he was at that place. I can never suffer more than I do at present, if my worst fears are confirmed, and any information will be preferable to the suspense which now corrodes my life.

There certainly must be somewhere a record of the names of those who fell, but situated as I am, so remote from any source of information, except the newspapers, I know not how to apply to obtain access to that record. If you will have the goodness to advise me how to proceed, or aid me in anyway, in obtaining information, you will confer a favor that will never be forgotten.

I feel a degree of enthusiasm in the cause in which you are embarked, which even my worst apprehensions are not sufficient to repress—and if I am a childless widow, it shall solace the residue of my days to reflect that I have lost my all in so glorious a cause.

Accept my fervent aspirations for your complete success, in an enterprise worthy of a Lafayette.

Very respectfully, your friend,

C. M. Thayer.

The *Port Gibson Correspondent* noted that a dozen or so had set out for Texas from that vicinity, while one writer makes mention of a company of Mississippians leaving about this time for the same destination.²² On the whole, however, there seems to have been no outburst of enthusiasm in Mississippi in behalf of the Texan cause such as was witnessed in the case of Kentucky for instance. It was not until the spring of 1836 that there took place any pronounced exodus of Mississippi volunteers; and, as will be seen, one of the principal commands arrived too late to be of any service on the field of battle. As may be surmised, Natchez served as the chief rendezvous for emigrants from

²²Issue of December 12, 1835; Rives, *United States and Mexico*, I, 364. The *True American* of New Orleans alluded to a fine cavalry company from the neighborhood of Natchez.

that portion of the State. This city was the scene of the recruiting activities of one of the most prominent figures in the Texas revolution, General Felix Huston. If we are to believe his critics, Huston played an obstreperous rather than an effective rôle in the struggle for independence; nevertheless, he rendered the cause no mean services by reason of his activities in organizing emigrants for Texas from other States as well as from his own. Huston was a typical military adventurer, ambitious and aggressive, but it would seem writers have done him scant justice in the account that one comes across in the books. He was a native of Kentucky, and when the Texas revolution broke out, was practicing law successfully at Natchez. In March, 1836, he published a letter in the *Louisville Journal* for the purpose of attracting volunteers.²³ If for no other reason the letter is interesting as throwing light upon the character of those whom Huston desires to compose his command:

Natchez, March 1, 1836.

Dear Sir: You will be surprised probably that I am going to Texas—but such is the case. I contemplate starting about the first of May, and expect to take with me about 500 emigrants. I am making preparations for arms, ammunition, etc., at an expense of \$40,000: and shall have a rendezvous and begin to send on supplies by the first of May. I wish to get some men from Kentucky. I should find no difficulty in getting as many as I want here, but there will be more difficulty in rejecting those I do not want, and who will not suit me, than in obtaining offers.

I intend to arm and uniform the men well, and provide supplies for twelve months—and I wish not to risk my fortune, my life, and my honor, on men whom I cannot rely. Such as go with me must be willing cheerfully to undergo the hardships and privations incidental to such enterprise, and preserve discipline.

I wish to get hardy, active and enterprising men, who have made up their minds, and will abide by their resolutions. I am making arrangements to obtain advantageous terms for those who emigrate to Texas with me—and shall in a few days have an agent at the convention which is now sitting. I will communicate to the public the terms on which men can join me when my agent returns. But this is now certain—they will be favorable. Those who go to Texas this year will readily find employment on good terms.

Your friend Felix Huston.

²³Quoted in the *Woodville Republican*, April 9, 1836.

The recruiting activities of Felix Huston went on apace during the month of April. His "locally notorious" efforts in this direction soon occasioned a protest on the part of the Mexican ambassador at Washington. During the first week of April Gorostiza complained that Huston was engaged in Tennessee in enlisting, arming, and clothing at his own expense a corps of 500 volunteers with which to proceed to Texas in May. The Mexican envoy moreover stated that seven vessels had been fitted out at Natchez and had embarked with hundreds of volunteers for Texas. But if such was the case, the majority of those leaving on these expeditions were not Mississippians, for an exodus upon such a scale as this would surely have excited marked comment on the part of the "public prints." A few days after Gorostiza's protest, Forsyth wrote to R. M. Gaines, the district attorney at Natchez, directing him to take measures against Huston or any others so offending. According to Claiborne, the United States marshal and district attorney were accountably absent; the former of these, Wm. M. Gwin, is said to have been at Nacogdoches at this time making large investments in Texas lands for himself and others.²⁴ A man by the name of Addison was acting as district attorney at Natchez, and he assured the secretary of state that the necessary diligence would be used to prevent any infraction of neutrality within his district.²⁵ It is not surprising to find that the attorney at Natchez, "after using great exertions to obtain a warrant, failed to do so." In a word no greater zeal was evinced in prosecuting offenders against the neutrality laws of the United States in Mississippi than anywhere else. And this was unfortunate for it gave the Mexican government a just grievance against the United States government.

A few weeks after the events narrated above, the following was written by Capt. Wm. K. English, of the *Swiss Boy* to John M. Ross, a Mississippian, who figured prominently in the events of this time.

²⁴*History of Mississippi*, 431.

²⁵*Senate Docs.*, 24 Cong., 2 Sess., VI, Nos. 25, 37, 42; *House Exec. Docs.*, 24 Cong., 1 Sess., VI, No. 256; 25 Cong., 2 Sess., III, No. 74. On the matter of neutrality, see Marshall, *The Western Boundary of the Louisiana Purchase, 1819-1841*, Ch. X.

The letter is dated Natchez, April 18, 1836, and is as follows:

I have arrived here (from Natchitoches) in compliance with my engagement to General Felix Huston, to transport as many of his friends to Nachitoches as may feel disposed to lend a hand to our suffering friends who emigrated thither.²⁶

From a communication of Thos. J. Green, brigadier-general in the Texan army, it appears that Huston expected to start from Natchez on May 7, to be followed some ten days later by General H. S. Foote.²⁷ His start was actually made on May 3, his party going by way of the Red River. He was escorted to the landing by the "Fencibles," one of the military organizations of Natchez, and accompanied by a number of volunteers, but just how many it is impossible to state.²⁸ According to his own account he did not arrive at the army until July 4. From this it is evident that when Huston arrived upon the scene, his military services were no longer needed so far as the actual independence of Texas was concerned, since that had been won by Houston and his men several months earlier. The same thing was true of Mississippi's foremost champion perhaps in the cause of Texas,—General John A. Quitman who, with his command, had the ill luck to arrive just a few days too late for the battle of San Jacinto.

The time of Huston's arrival coincided with the quarrel between the civil and military authorities of the new government. Nor did a much happier state of affairs prevail in the army. T. J. Golightly, one of those who went out with Quitman, writing to him from the camp in the neighborhood of La Bahia, states that for thirteen days the army had had nothing to eat but beef; after giving an account of the movements of the army during the latter part of May and the first week in June, he concludes with this statement: "There is much dissatisfaction in the army in relation to the acts or rather I would hope ideal prepossessions of the cabinet on the subject of the disposition of the prisoners."²⁹

Now that the Mexicans had been repelled, interest centered chiefly around the command of the army, and as always happens

²⁶*Natchez Daily Courier* in *Woodville Republican*, April 23, 1836.

²⁷*Ibid.*, May 7, 1836; *Memphis Enquirer*, May 18, 1836.

²⁸*Weekly Courier and Journal*, May 5, 1837.

²⁹MS. *Claiborne Correspondence*.

in similar circumstances, more than one felt himself born to command.

There can be no doubt that Huston would have eagerly accepted the chief command, had not circumstances at the beginning forced him into the rôle rather of umpire, while the claims of others were being passed upon. Matters reached a crisis in July when Colonel M. B. Lamar went to assume command of the army, he having been appointed major-general by the Texan government. Opposition manifesting itself among the men to Lamar's appointment, Huston was requested to act as chairman of a committee of officers to draft resolutions to be drawn, at Huston's instance, as favorable as possible to Lamar. General Lamar, however, insisted upon laying the question of his reception before the army. Then men were also addressed by Generals Green and Rusk. According to Huston's account, a few of the soldiers shouted "Lamar!" a number "Rusk!" and a large number "Huston!" Upon the question of the reception of Lamar being put to the army, 179 votes were cast in his favor, with some 1500 opposed.³⁰ On July 13, R. R. Royal had written Lamar that the meeting which drew up resolutions in regard to his taking command of the army was composed of a few officers only, the staff mostly, and he affirmed that a large majority preferred him to General Rusk.³¹ A few days after the incident just described we find Lamar writing to President Burnet of "the dreadful state of affairs in the army—everything is in threatened confusion and rebellion." He had wanted to address the soldiers, but declared that Huston, Rusk, and Green carried the popular current against him. If Huston and Green persisted in their rebellious attitude, Lamar was in favor of punishing them by court-martial, if possible; if not, they should be reported to Congress.³² Writing from Vicksburg in November to Lamar, Memucan Hunt stated that General Chambers would not serve under Felix Huston. "I have a very high regard for General Felix Huston, but I should exceedingly regret to see any discord in the army on account of the appointment of the chief command."³³ Upon the appointment of

³⁰Yoakum, *History of Texas*, II, 183-188.

³¹MS. *Lamar Papers*.

³²*Ibid.*

³³*Ibid.*

Rusk to a seat in the cabinet—a post which he declined—the command of the army was left practically in the hands of Huston. The condition of the army seems to have improved, for early in December we find Huston writing as follows: “The army is in good health and spirits and improving in discipline.”³⁴ He expected a hard contested campaign in anticipation of an attack from General Bravo, who, it was reported, had taken the field. All during the month of December Huston was apprehensive of an attack by the Mexicans or Indians. In consequence of Huston’s report to the head of the government that the Mexicans were engaged in active and formidable preparations for the invasion of Texas, the immediate organization of the militia was ordered by Wm. G. Cooke, acting secretary of war. On December 15, 1836, Huston presided over a meeting of officers for the purpose of adopting resolutions in honor of major-general Jas. L. Holmes, of the Kentucky volunteers.³⁵ On a similar occasion, the headquarters of the army being Camp Independence, Huston occupying the chair spoke in praise of the services of Colonel J. T. Collinsworth, inspector-general. This shows the man not entirely void of magnanimity, since he could recognize the merits of a brother officer. In January the condition of the army was reported much improved. An indication of this may be seen in the meeting held by the officers of the army, including the Kentucky volunteers to protest against the libels of Messrs. Wilson and Postlethwaite, of that State.³⁶ The *Weekly Courier and Journal* of January 27, 1837, printed a letter purporting to be from an officer of high rank and standing in the Texan army, highly laudatory of Huston. The army had been out of bread for several weeks, but an excellent address from that officer had quieted all murmuring from the soldiers.

I think the course General Huston is now pursuing eminently calculated to insure the most entire and exact discipline in the army, and at the same time to secure to him the support of all who have the good of the country at heart, and are desirous that Texas should as nobly and gloriously triumph in the coming contest as she did in the last. I know of no man better entitled

³⁴*Natchez Courier* in the *Woodville Republican*, January 21, 1837.

³⁵*Telegraph and Texas Register*, January 3, 1837.

³⁶*Ibid.*, February 14, 1837.

to the confidence and support of every volunteered and every citizen of Texas, than General Felix Huston.

Early in March Huston decided to return to the United States for a short visit. The headquarters of the army were now Camp Preston. A committee of five officers drafted resolutions of a highly flattering nature to him on the occasion of his departure. In these Huston was eulogized as the true friend of liberty and Texas, and as one who was leaving the army with the universal and solid regret of both officers and men. By his skill, tact, and ability he had gradually and almost insensibly introduced and effectually restored order and discipline. To the resolutions Huston replied from Texana. He alluded to the deplorable state of the army at the beginning, and to *his* reorganization of the same, thereby securing peace and harmony; with pride he dwelt upon the fact that the officers had commended his not interfering in the politics and party rivalries of the country, and his not engaging in speculative enterprises. "He lamented the demon of speculation stalking over the land with giant strides," and threatening to stamp upon the country a landed aristocracy. He was determined that his reputation should not suffer from the charge of marauding and plunder.³⁷ Before leaving for Mississippi, Huston severely wounded Albert Sidney Johnston in a duel fought February 5.³⁸ The latter had been appointed senior brigadier-general of the army by President Houston. In May the secretary of war was ordered to furlough all the companies save about 600 men. The army thus ceased to be a menace to the civil government. General Huston repaired to Natchez where he remained, failing to return to Texas at the first of December as he had intended.³⁹ In 1838 Huston was in Texas again, and in a letter to General Quitman he throws some interesting light upon the state of affairs at that time, and incidentally enables us to get a more complete view of his own motives.

The body of troops with which he was now associated numbered over 400, and was commanded by Rusk. Huston states

³⁷*Ibid.*, March 21, 1837; *Weekly Courier and Journal*, April 13, 14, 1837.

³⁸See *The Military Historian and Economist*, October, 1916.

³⁹*Woodville Republican*, November 25, 1837.

that he desired to assume no command himself: he had been treated coldly, but had a great many friends among the officers. The army was as fine a body of men as he ever saw, but lacked confidence in its management. "I will dispassionately do my duty. I believe as the danger thickens, I can be of great use." In his opinion Sam Houston had ruined the country, doing everything he could to prevent a turn-out of the citizens; only great prudence and firmness could save it. The Cherokees he believed were at the bottom of the mischief. He concludes by mentioning that he has bought 1280 acres of Poindexter—perhaps George Poindexter is meant—and he has furthermore been promised notes for some entries of land which will be very valuable.⁴⁰ The inference is that while Huston was willing to serve in the ranks, he felt the times demanded an aggressive policy, and it is not difficult to believe that Huston felt that he was the one to carry out such a policy.

In January of the following year Huston was in Houston. From there he writes Quitman that he is still in favor of a vigorous policy; he has no confidence in Rusk's doing anything, and deplores Lamar's temporizing policy. Though convinced that a decided majority of both houses of the Texan Congress favored his views, yet he would refrain from making a direct proposition to that body. Of greater interest is Huston's proposal to place a military colony on the Rio Grande of from five to ten thousand men, if the Texas government would authorize him to negotiate bonds for \$500,000. "If news were to arrive that the French blockade would shortly be raised, it would go like a flash." If a force could not be put on the western frontier before another year, the country would be lost.⁴¹ In April Huston was back in Natchez; from this point he writes to Quitman to learn the probability of General Hamilton's making a loan to Texas. The latter is furthermore to enquire at Liverpool as to the disposition of any large commercial house opening direct trade with Texas.⁴² In 1840 Huston rendered the new republic a service by winning the battle of Plum Creek against the Indians. Kennedy states that Huston incurred an expense of \$40,000 in connection with

⁴⁰MS. *Claiborne Correspondence*.

⁴¹*Ibid.*

⁴²*Ibid.*

sending volunteers to Texas; this is Huston's estimate of what he proposed to expend, and while it may be an exaggeration, the fact remains that large sums were undoubtedly laid out by him in equipping armed emigrants.⁴³

No writer on Texas history has a good word to say for Huston. On the contrary, he has been severely arraigned for his lack of military quarters, for indulging the soldiers in spree, and for seeking to influence them to threaten "to chastise the President, kick Congress out of doors, and give laws to Texas."⁴⁴ Most reprehensible are these charges if true; certain ones, however, are contradicted by Huston's statements, as will be shown below. Huston was, as I have said, a typical military adventurer, and was probably no better and no worse than many another who in 1836 sought in Texas an opportunity for winning fame by successful campaigns against the Mexicans and Indians. He was no doubt over-aggressive in seeking the command of the army, he deserves censure for challenging Johnston, and the Matamoras expedition, which he urged upon the government, was certainly an unwise measure. This last point deserves a little fuller consideration, since it well illustrates Huston's general policy—namely, an aggressive attitude toward Mexico. This is brought out in a letter written to General Quitman from the camp in the vicinity of Victoria in the summer of 1836. The writer sets forth his intention of starting on ahead with a force of 500 cavalry. He was convinced that Mexico would never acquiesce in the United States extending to the Rio Grande, and that a blow should be struck at her immense frontier on that river before she had time to recruit her strength and energies for another campaign. The impending invasion could be prevented by the capture of Matamoras: "if so, Mexico is open before us." Rusk and General Green agreed with him that the war must be prosecuted with energy. An invasion of that country was necessary to secure the recognition by that country of Texas independence. The writer concludes with the statement that "a short fight and long negotiation is not the way to gain a profit by victory."⁴⁵

⁴³Cf. Kennedy, *History of Texas*, II, 241.

⁴⁴Cf. Williams, *Houston*, 239; Wooten, *History of Texas*, 255.

⁴⁵MS. *Claiborne Correspondence*.

General Huston later became the law partner of S. S. Prentiss in New Orleans. When the question of Texas annexation became a burning issue in 1844, a Democratic journal recorded that Huston solemnly declared he would vote the Texas annexation ticket for the Presidency, and would moreover take the stump in Mississippi in favor of that policy.⁴⁶ Huston proved a more far-sighted political seer than might have been expected. In June, 1847, he wrote that "Gen'l Taylor will be the next President in all probability," provided he kept clear of old party questions and avoided disturbing the tariff.⁴⁷ In 1850 there appeared from the pen of Huston an interesting pamphlet entitled "The Military Strength of the Southern States, and the Effects of Slavery Therein, Addressed to the Southern Convention." The author's conclusion was that the South had no cause for alarm from its slave population or from the abolitionists.

Writing to General Quitman from Natchez in that same year, Huston expressed the conviction that the issue involved was secession or submission; he was opposed to a general Southern convention and favored State action. "Let Georgia or Mississippi take the lead and secede. And this brings the necessity of the General Government using force—and gradually other States will join." He agrees with Quitman that the North will momentarily suspend aggression, but only for the purpose of gaining strength. "Now my dear General is the time for decision and nerve, and we must not be discouraged by opposition. The destinies of nations cannot be changed without a struggle." Causes were at work which would unite the South.⁴⁸

There was another Mississippian destined to attain eminence in the political history of his State to whom the call of Texas came in a peculiarly appealing manner. The response was indicative of an ardent and a generous nature. That man was John A. Quitman. Writing to his brother from Monmouth under date of October 17, 1835, he says: "There is war in Texas. Were I without family, I would repair there immediately. Freemen who are struggling for their violated rights should not be left to strug-

⁴⁶*Sentinel and Expositor*, June 8, 1844.

⁴⁷MS. *Claiborne Correspondence*.

⁴⁸*Ibid.*

gle unaided." His interest in Texas had been aroused no doubt by General Sam Houston, who had written him from Nacogdoches in February of this year. Natchez at this time contained several military organizations: among these were the "Natchez Hussars," "the Adams Light Guards," and "the Natchez Fencibles"; of the last mentioned Quitman was captain. This company had been organized by him April 24, 1824, with himself as captain, John J. Guion as first lieutenant, and Duncan S. Walker and A. Bingham, second and third lieutenants. The "Fencibles" maintained its organization for years after these events, participating in the Mexican War, and rendering valiant service in the Civil War. Writing in 1846 to the representatives of Mississippi in Congress, Quitman represented his fellow citizens as sore and dissatisfied lest they should not have a fair chance in the approaching conflict. Allusion was made by him to the "blood and treasure poured out in the cause of Texas," and to the fact that "we were foremost in the cause of annexation."⁴⁹

Having been excused from duty by his company, Quitman and Huston published notice of their intention of proceeding to Texas, together with the terms upon which volunteers would be accepted. On the morning of April 5, 1836, the people of Natchez assembled to see Quitman take leave of his company. By T. J. Green, of the Texan army, Captain Quitman was spoken of as "a gentleman of high standing and talents, who visits our bleeding country, a *soldier*."⁵⁰ Embarkation was made in the steamer *Swiss Boy*, Natchitoches being reached on the night of the 7th. From this point on the following day he wrote Huston of his intention to proceed towards Nacogdoches, making, however a slight *detour* to avoid the United States garrison at Fort Jessup. On the 9th the Sabine was crossed at Gaines' Ferry. Here Quitman was elected captain by the men. San Augustine was reached on the 10th; and Martin's on the day following. Here news was received of a threatened attack by Mexicans and Indians upon Nacogdoches, which Quitman and his men prepared to defend. Claiborne in his scholarly and interesting *Life of Quitman* prints a letter written by the latter to Huston in which a vivid account

⁴⁹*Ibid.*

⁵⁰*Ibid.*

is given of the terror which had seized upon men, women, and children in view of the anticipated attack. The prompt advance of his party, it is said, saved the place from being burned.

Leaving Nacogdoches on the 17th, the party crossed the Trinity at Robin's Ferry, arriving upon the field of San Jacinto just two days after that battle. Quitman was presented with a lance and a stand of arms by Lieutenant-Colonel Millard, captured from the enemy on the 21st. Some of the men remained in Texas, the others returning home. Quitman returned by the Opelousas trail, arriving at Natchez May 27th. He is said to have contributed several thousand dollars to refugees, the campaign costing him in all the sum of \$10,000.⁵¹

About seventy volunteers are said to have accompanied Quitman, though the names of very few have been preserved.⁵² On June 6 he was tendered a reception by his old command the "Natchez Fencibles," an organization which as one editor put it "reëchoed the alarms of the Bexar." The anniversaries of these companies were celebrated with much flourish and speechmaking by the citizens of Natchez: the "Fencibles" later chose April 21 as their celebration day. In spite of the fact that the two principal commands which went out from Mississippi arrived after the independence of Texas was practically achieved, yet there were volunteers from that State who fell in defense of the Texan cause. No lists of those composing the commands of Huston and of Quitman seemingly have been preserved. Among those slain at the Alamo was Christopher Parker, of Natchez; with Colonel Grant was Dr. C. P. Heartt, who lost his life, and a son of Mrs. Mary C. Marshall.⁵³ In Fannin's command were J. Falkman, Jos. Hicks, and two men by the name of Colston and Martin—the last effecting his escape.⁵⁴ B. F. Smith, after raising a volunteer company, fought as a private at San Jacinto.⁵⁵ Among the veterans of the first class who emigrated in 1836 was a group

⁵¹The above account is based on the first volume of Claiborne's *Quitman*. Contemporary newspapers also contain references to his movements.

⁵²Among these were Wm. Strickland, J. G. Golightly, M. M. Railey, J. S. Munce, A. G. Coffin, J. Steen, and M. B. Lewis.

⁵³*Muster Rolls*, p. 6; *Grand Gulf Advertiser*, May 5, 1836.

⁵⁴*Memphis Enquirer*, June 29, 1836.

⁵⁵Thrall, *Pictorial History of Texas*, 619.

whose ages averaged nearly sixty years.⁵⁶ These Mississippi volunteers, certainly the later ones, joined the Auxiliary Corps, being with difficulty enlisted for three months. The organization was loose, and most of the volunteers seem to have returned home after the capture of Bexar.

On July 22, 1836, the governor of Mississippi issued a proclamation calling for ten companies of mounted volunteers for the purpose of aiding General Gaines. These companies raised in four divisions were to report to Major-Generals A. P. Cunningham, H. W. Dunlap, and E. L. Acee. All were to mobilize at Vicksburg by August 15th. According to the *Clinton Gazette*, 200 volunteers were recruited in Lowndes, Monroe, and Winston Counties by General Acee; these later were disbanded at Raymond. General Cunningham printed an appeal to the young men of his division to march to the defense of the frontier. General Dunlap and the Governor found it necessary it seems to order a draft in certain beats to secure troops for the western frontier.⁵⁷ The countermanding of General Gaines's requisition for troops by the government at Washington led to the disbanding of these companies.

Robert J. Walker

No account of Mississippi's attitude toward the Texas revolution would be complete without some reference at least to the invaluable services rendered by R. J. Walker in connection with the recognition of Texan independence by the United States government. The cause of recognition and of annexation had no more untiring advocate than this remarkable man, and his labors have received scant recognition from writers on Texas history.⁵⁸ Walker took his seat in the United States Senate just two months before the battle of San Jacinto, or to be exact, on February 22, 1836. His tenure of office ended March 4, 1845. In season and out of season he labored zealously for the recognition and annexation of Texas, and the fact that Texas was finally incorporated

⁵⁶Baker, *Texas Scrap Book*, passim.

⁵⁷*Woodville Republican*, August 13, 27, 1836; *Clinton Gazette*, August 27, 1836.

⁵⁸Walker's activities in connection with the recognition of Texas by the United States and with annexation have been dealt with by the writer in the *Texas Review* for April, 1917.

within the American Union was due in no small degree to this representative of Mississippi. His entry into public life in the State of his adoption was attended by interesting circumstances. By his political rivals he was regarded as an upstart, who was not overscrupulous in his methods of advancing his political fortunes. George Poindexter, who has been pilloried by Claiborne in his *History of Mississippi*, was Walker's predecessor in office. Poindexter had incurred the everlasting enmity of Jackson, and he on his part never lost an opportunity of hitting back at the usurpation and tyranny that characterized the government at Washington. Poindexter had even been charged with being privy to an attack upon Jackson's life, and by his enemies was branded as having acted the part of a coward at the battle of New Orleans.⁵⁹ While Jackson's popularity in the South may have rested upon an artificial basis, no one who had incurred his wrath at this time in Mississippi could expect any political preferment. And none knew this better than Poindexter, who in the spring of 1835 was announcing his proposed retirement from public life at the expiration of his term of office. Walker made the opening speech of his campaign at Raymond, in Hinds County, in September of this year. According to the *Clinton Gazette*—an ardent supporter of Judge Hugh L. White, and vehemently opposed to everything savoring of "caucus management"—a letter of Walker's to John H. Mallory, of Jackson, was found by the roadside after the "Raymond defeat." This was published in the *Natchez Courier* as the "Glory Letter," inasmuch as the writer had indulged in statements laudatory of himself which naturally provoked much criticism from the Whig editors. Highly offensive to the *Clinton Gazette* were the exhortations to the recipient to rally the forces of caucusism, to "do the business" of securing votes for the nominee of the Jackson convention.⁶⁰ Months before this, however, Walker's candidacy for the Senate was being promoted by himself and his supporters. In 1834 the charge was made against him that he was not a citizen of Mississippi, and was hence ineligible to succeed Poindexter. Replying to an en-

⁵⁹*Woodville Republican*, March 14, 28, 1835. The last charge was made the subject of a bitter pamphlet attack upon Poindexter.

⁶⁰Issue of October 10, 1835.

quiry of this nature, Walker was at much pains to prove himself a citizen of that State—which was perfectly true. He represented that by declining to file an affidavit to the effect that he was a citizen of Louisiana, he had forfeited stock and loans to the extent of \$15,000 in the Citizens Bank of Louisiana.⁶¹ This was set forth in a letter to John W. Gildart, a representative from Hinds County, and a supporter of Walker. Poindexter's term expiring March 3, 1835, Governor Runnels called the legislature in special session on January 19th of the ensuing year. Among the reasons given for this action was the probability of the United States Senate being convoked prior to the regular meeting of Congress, and the necessity of the State's being represented in that body.⁶² G. D. Boyd, one of the representatives from Hinds, writing in April to the editor of the *Woodville Republican*, affirmed that he had advised the Governor to call an extra session to show that Poindexter had misrepresented the State: he did not believe that as many as eight votes could have been gotten for Poindexter in the two houses; furthermore, among the names mentioned as suitable senatorial timber were those of DeGraffenreid, Pray, Hinds, and Plummer, but not that of Walker.⁶³

On the part of some, strong dissent was expressed to the choice of Walker as the successor of Poindexter, for it was held his selection would be but perpetuating the odious and anti-republican principle of government by the few; he was the caucus nominee of a Van Buren convention, and was therefore unacceptable to a large number of Democrats who preferred Judge White to "the Yankee juggler of Kinderhook."⁶⁴ The candidate for the legislature from Amite strongly doubted the wisdom of choosing either Walker or Plummer, since both had been charged with political inconsistencies and improprieties. John A. Grimball, candidate for the State Senate, from Hinds, expressed similar views.⁶⁵ One week before the selection of a successor to Poindexter by the legislature, an interesting editorial appeared in the *Clinton Gazette*, entitled "Who Shall Be Our Next Senator in Congress?" Evi-

⁶¹*Woodville Republican*, January 3, 1835.

⁶²*Ibid.*, February 7, 1835.

⁶³April 11, 1835.

⁶⁴*Ibid.*, June 13, 1835.

⁶⁵*Ibid.*, October 10, 24, 1835.

dently Walker was introducing new methods into Mississippi politics, but methods which have been well learned since his day: among these were an unbecoming eagerness to influence members of the legislature to vote for him; he had mounted the stump to wage a tongue war against George H. Poindexter; he had shown a lack of delicacy in reading in public a letter from the President to Colonel Campbell extolling Walker's virtues; and above all he had traversed the whole State making stump speeches. But however reprehensible such electioneering methods may have been in those days, they were not without result. There were five candidates before the legislature, Walker's principal rivals being Poindexter and Plummer. On the fifth ballot, Walker secured a majority of one, and was declared duly elected. Great was the chagrin and disappointment of the *Clinton Gazette* when Walker's election became known, for was not the newly-elected senator a "time-serving, sycophantic demagogue?" "a little, whining, county-court lawyer, notoriously incompetent, ingorant and insignificant?" Moreover, it was charged that his election was not without taint, for one representative from Copiah, and one from Scott had been instructed for Plummer, whom they had deserted.⁶⁶ Some point was given to this charge by the admission of Joshua A. Murray, of Jackson, that the night before the election he had been visited by John H. Mallory, auditor of public accounts, who suggested that he vote for Plummer first and then switch to Walker: there was to be a vacancy in the land office at Clinton in the spring, to which a salary of \$3000 was attached, and Murray might secure this. One representative, I. R. Nicholson, was hung in effigy for having voted for Walker.⁶⁷ Such was the manner in which Robert J. Walker became the representative of Mississippi in the United States Senate.

The public documents containing Walker's speeches on the Texas question are easily accessible, and it is not necessary to rehearse them here. He was one of the ablest and shrewdest advocates of southwestern expansion in Congress during the decade following the recognition of Texas independence. There is one incident of his career not so well known, and which it may be of

⁶⁶Issue of January 2, 1836.

⁶⁷*Ibid.*, January 16, February 6, 1836.

interest to recall. This is the occasion of his reception by the Texan Congress, when he visited that country in the spring of 1837. By Wharton he was introduced in "encomiastic" terms to the assembled officials of the new republic. The speaker briefly reviewed his services in connection with the struggle for Texas independence. It is not surprising that on such an occasion as this some oratory of the old-fashioned type should have been indulged in:

It was as a Senator from the State of Mississippi, it was a representative of the feelings and wishes of that gallant people, so many of whose sons came here to conquer or die in the cause of Texas, that the resolution of recognition was introduced and advocated. It was the voice of Mississippi that spoke on that occasion, the voice of that people whose feelings in your behalf were overflowing as their own noble river, and warm as their own sunny clime; and whilst I acknowledge how humble were my own poor services in this transaction, how inadequate to the great emergency, how unequal to my own desires, let me say to the Congress and people of Texas, that my highest hopes and wishes will be gratified if, whilst individual names are, as they ought to be, forgotten, it is remembered that it was a Senator from the State of Mississippi who first introduced the resolutions of recognition, and that to the State, and not to any individual, is justly due the honor and glory connected with that event.

Walker did not close without appealing to those present to relax not their efforts in the cause of annexation.⁶⁸

Attitude of the Newspapers

It may be of interest to notice briefly in conclusion how the Texan situation impressed the editors of a few representative journals. The *Woodville Republican*, an anti-administration organ, naturally found much in Jackson's policy to criticize: "The President prates too much about neutrality. We should not be surprised if he were to oppose the annexation of Texas to the United States." The wail of a Whig editor is discernible in the following: "God grant that the progress of tyranny and misrule commenced by our rulers here, and meekly and tamely acquiesced in by the people, may not drive the small remnant of

⁶⁸*Telegraph and Texas Register*, June 3, 1837.

the spirit of '76, yet lingering among us, to this new land of promise. Heaven forbid that this should occur; but the aspect is now unpropitious. . . . Economy and Reform can alone save us." Governor McDuffie's course in regard to Texas was deprecated: "For, disguise it as you may, the almost entire opposition to the recognition of the independence of Texas and annexation to the United States arises from a hostility to Southern institutions." The editor had scant sympathy with the President's plea for caution in recognition on account of the disproportion of physical force of Texas and Mexico; precisely the same argument might have been set up by France when the United States applied for recognition. The idea of Texan independence evoked this outburst: "Mexico can never recover her lost domain—sooner will the Texian star irradiate over the volcano of Popocatepetl, her warriors bathe in Lake Tezcuco, and promenade in the delightful shades of the Alameda!"⁶⁹

The *Sentinel and Expositor* attacked the course of the Federal government in regard to Texas as inconsistent and vacillating. "It has paltered in a double sense both with Mexico and Texas, and every candid man must be disgusted when he reviews the course of our Federal government." This paper attributed Jackson's lack of zeal in the cause of Texas to those items in Morfit's report which dealt with the limitations upon the executive's power of appointment and removal in the constitution of the new republic. Jackson's rule was characterized as a "reign of ferocious despotism, as equalling the despotic, vindictive and malignant tyranny of all the Tarquins." Governor McDuffie's attitude toward the annexation of Texas was applauded as a "disinterested devotion to the immutable principles of justice and honor."⁷⁰ The *Columbus Democrat* was convinced that Texas had nothing to expect from the Whigs, but must look to the same Democratic party that brought in Arkansas and Michigan against the wishes of Webster, Biddle and the Bank party.⁷¹ The *Mississippi Free Trader*, ever a staunch Democratic journal, was enthusiastic for the future of Texas, and was surprised at the apathy of the peo-

⁶⁹Issues of December 24, February 27, 1836; March 11, 1837.

⁷⁰Issues of January 3, 17, 24; February 7; March 14, 1837.

⁷¹Issue of July 8, 1837.

ple of Mississippi in purchasing Texas lands, for which abundant opportunity was afforded. It repelled the assertion of the *Natchez Courier* that Van Buren was at heart utterly opposed to the Texan cause, or that the President was influenced by him. The chief magistrate had "acted honestly, feelingly, nobly"; he had preserved inviolate all treaties and according to them had observed a strict neutrality.⁷²

The *Natchez Courier* was one of the most influential journals in Mississippi and was ably edited in the interest of the Whig party. It favored the acquisition of Texas, and advised its readers to invest in Texas scrip, which was said to have met with a ready sale in Natchez. The Texas question was welcomed as showing who were for "Texas and liberty to the South, or against Texas and white freedom in the South." "The acquisition of Texas would give the South an equality in the Union by which she could maintain her rights and meet the North upon fair ground."⁷³

Mississippi thus like so many of its sister States bore its part in the movement for Texas independence; there was a measure of truth in the assertion of the *Natchez Courier* that "community and State have given Texas men and money with a liberality almost extravagant."

⁷²Issues of September 1, 1836; February 4, 7, 18, 1837.

⁷³*Daily Courier* in *Woodville Republican*, June 4, 1836; *Weekly Courier and Journal*, February 24; March 17, 24, 1837.

THE "TWIN SISTERS" CANNON, 1836-1865

E. W. WINKLER

Of the objects associated in the popular mind with the Texan Revolution, the "Twin Sisters" cannon and the Lone Star flag hold first place. They symbolize in a general way the triumph of liberty. Both have been talked and written about a good deal; first, during the exciting period of secession in 1861, and later, beginning with the revival of interest in the early history of Texas about 1876. The history and evolution of the Texas flag have been well told by Mrs. Adèle B. Looscan in *A Comprehensive History of Texas* (I, 693-99). The whereabouts of the "Twin Sisters" is still a favorite subject for speculation.

The *Cincinnati Evening Post* published a report of a meeting of the friends of Texas held in that city on November 17, 1835, from which the following data are obtained. Nicholas Clopper presided. "Edward Woodruff . . . gave some very interesting reasons upon the propriety of cheering on the Texeans in their struggle for Liberty. After Mr. Woodruff had closed, there were many and repeated calls for Robert T. Lyttle, Esq. . . . Mr. Lyttle offered the following resolutions, prefaced by some most thrilling and eloquent appeals in the cause of human liberty. He was repeatedly and enthusiastically cheered by one of the largest meetings held in our city for some time. The resolutions were unanimously adopted."

Resolved that this meeting cooperate in sentiment and feeling with the independent citizens of Texas, in their manly efforts now making in that Territory, by the late citizens of the United States, in maintaining their rights and resisting the aggressions upon them by an unprincipled usurper.

That as American citizens, we can do no less than encourage the *Spirit of Freedom*, wherever or by whatever people it may be displayed.

That the violation of the natural and conventional rights of our friends and brethren in Texas is regarded by this meeting with abhorrence and just indignation, and that they do commend in this instance the measures of resistance that have been resorted to and confidently hope and believe that as sons of the United

[States of] America, the lessons of their fathers will not be lost on their descendants.

That, as in the case of the patriotic Greeks, the South Americans and the Poles, we have a right to cheer them by our sympathies, and to aid them in the supplies of clothes and provisions.

That we approve of and recommend to the citizen of this meeting a plan by which the citizens of Texas shall be supplied through their agent, Mr. Smith, by our contributions, with such an amount of *hollow ware* as he may deem sufficient, to contain *other provisions*, by which they shall be filled, according to his judgment and sound discretion.

That this meeting have every confidence in the integrity and patriotism of Mr. Smith, and no wish or intention to violate any law of their own government.

On motion of R. T. Lyttle, Esq., a central committee was appointed to correspond with the New Orleans committee, in relation to Texas. The committee was formed by the appointment of Dr. Daniel Drake, William M. Corry, Nathaniel Seaman, Colonel Charles Hales, and Israel Ludlow.¹

Under date of March 16, 1836, Mr. William Bryan, general agent for Texas at New Orleans, reported to the Governor and Council of Texas the arrival at that place of "two iron field pieces":

I have rec'd a letter from Cincinnati Ohio, and with it two Iron field pieces complete excepting harness, presented by the Citizens of Cincinnati, (through W M Corry Chn of Texas Committee Edward Woodruff and Pulaski Smith Esquires) to the government of Texas. I have in the name of the government acknowledged their receipt, and presented them with your thanks for their noble and acceptable donation. . . .

"The cannon were manufactured, mounted, supplied with shot at the foundry of Messrs. Greenwood and Webb," of Cincinnati.² They were dispatched by Mr. Bryan to Brazoria. "To this point General Houston sent twice for them; but the want of means of transportation, the wretched condition of the roads, and ultimately the proximity of the enemy, made it hazardous to forward them by that route. They were then shipped by Colonel A. Hus-

¹*Cincinnati Evening Post* quoted by the *Texean and Emigrants' Guide* (Nacogdoches), December 19, 1835.

²Yoakum, *History of Texas*, II, 123.

ton, the quartermaster-general, on board the schooner *Pennsylvania*³ to Galveston Island, and thence to Harrisburg. At this place horses were pressed to haul them, and they were started on the 9th of April, under care of Captain Smith, to the army."⁴ They reached the army at Groce's on the 11th.⁵ They were the only cannon in possession of Houston's army, and their receipt produced quite a sensation. One of the soldiers described them as "two beautiful, new, iron field pieces."⁶

President Burnet sent an official letter of thanks to Daniel Drake, M. D., William Corry, Pulaski Smith, Nathan Leamans, and W. Chase, dated Velasco, July 22, 1836:

GENTLEMEN: The two beautiful pieces of "Hollow-ware," lately presented to us, through your agency, by the citizens of Cincinnati, as a free-will offering to the cause of human liberty, were received very opportunely, and have become conspicuous in our struggle for independence. Their first effective operations were in the memorable field of San Jacinto, where they contributed greatly to the achievement of a victory not often paralleled in the annals of war. . . .

To you gentlemen, and to the citizens of Cincinnati, who have manifested so generous a sympathy in our cause, I beg leave to tender the warmest thanks of a people who are contending for their liberties and their lives, against a numerous nation of semi-savages, whose cruelty is equalled only by their want of spirit and of military prowess.

Should our enemy have the temerity to renew his attempt to subjugate our delightful country, the voices of the *twin sisters* of Cincinnati⁷ will yet send their reverberations beyond the Rio

³Mr. Ben C. Stuart makes the statement upon information obtained from Luke A. Falvel, captain of the schooner *Flash*, that it was his vessel that carried the cannon from Velasco to Morgan's Point, and that the sloop *Ohio* conveyed them from Morgan's Point to Harrisburg. (*Galveston News*, November 14, 1909.)

⁴Yoakum, *History of Texas*, II, 123.

⁵THE QUARTERLY, IV, 249.

⁶Kuykendall, *Ibid.*, 302. In a letter, written by Henry Vallette, Cincinnati, May 31, 1836, to David G. Burnet, he says, "We sent you two iron 4 Pounders last March," but Houston and Rusk, in their reports of the battle of San Jacinto, each calls them six-pounders.

⁷This is the earliest use of the term "Twin Sisters of Cincinnati" that has come to my notice. In his speech in the United States Senate, February 28, 1859, Sam Houston told of the receipt, while encamped on the Brazos, of "two small six-pounders, presented by the magnanimity of the people of Cincinnati, and subsequently called the "Twin Sisters." (THE

Grande, and carry unusual terror into many a Mexican hamlet. Texas has no desire to extend her conquests beyond her own natural and appropriate limits, but if the war must be prosecuted against us, after abundant evidence of its futility has been exhibited to the enemy and to the world, other land than our own must sustain a portion of its ravages.

The period of active service of the "Twin Sisters" apparently ends here. Early in 1840, together with the other ordnance stores, they were removed from Houston to Austin.⁸ It is probable that they were stationed so as to be ready for use against the Indians, but no evidence has been found of actual service. On the other hand, the anniversary of the battle of San Jacinto was ushered in on April 21, 1841, by "a colloquial interchange of the same twin-sisters, that spoke with so much effect on that day five years ago."⁹ And later in the same year, when President Houston was inaugurated, "the very moment that General Houston kissed the Book, as a seal to his oath to support, protect and defend the Constitution, one of the 'Twin Sisters' of San Jacinto thundered forth as it were a loud shout of joy! The effect was electrical upon the multitudes, as it was unanticipated and was followed by bursts of applause."¹⁰

Then followed annexation, consummated in such haste, leaving the terms so vague, that there was no end of dissatisfaction and dispute. The war with Mexico delayed the carrying out of some of the provisions. The fact that General Taylor had little love for Texas, made them all the more critical of his course. The editor of the *State Gazette* complained:

The Government is removing the public property from the depot at Galveston to Baton Rouge. It will not be long before Gen. Taylor will have stripped our State of every vestige of our revolutionary trophies. The United States have got our naval vessels

QUARTERLY, IV, 320.) The tendency to adorn a tale has given rise to a story which relates that they were called "Twin Sisters" in honor of two little girls, the twin daughters of a Dr. Rice, a physician in the Texas navy, who stood sponsors at the presentation. (*Houston Post*, August 30, 1909.)

⁸"Report of the Colonel of Ordnance" in *Appendix to the Journals of the House of Representatives*, Fifth Congress, 169-70.

⁹*Texas Centinel* (Austin), April 29, 1841.

¹⁰*The Red-Lander*, December 30, 1841.

and armaments, and will probably leave us to pay for them. They are now removing from our limits the very guns that were placed on the battery at Galveston by the Republic of Texas to defend the harbor. Can any one tell where the "Twin Sisters," which did such good service on the field of San Jacinto, are now to be found? Was it too much to leave them on the soil which they had defended? Have we not a generous, a just, even a paternal Government! It leaves us utterly exposed on all sides—our towns on the coast to an attack by sea and our settlements on the frontiers to Indian foray and depredation. But this is only a part of the price of our confiding patriotism. The end is not yet.¹¹

The removal of the "Twin Sisters" to Baton Rouge would in all probability have been the end of them but for the fact that the events of 1861 again turned attention to military preparedness. George Williamson, commissioner for Louisiana to Texas, arrived in Texas during the interval between the first and second sessions of the Secession Convention, when matters were in charge of the Committee on Public Safety. John C. Robertson, chairman of this committee, on February 14 addressed Mr. Williamson as follows:

The Committee on Public Safety regret to have to make known to your State through yourself the unfortunate condition of Texas as to arms for her people. Should coercion be the policy of the incoming administration at Washington, we hope to bring into the field as many strong arms and brave hearts as our Southern sisters, but in this crisis we must ask them to lend us whatever spare arms they have. The committee beg to know of you what assurances you can give to Texas in behalf of your gallant State on this subject. Especially, sir, would we ask of you your individual efforts in our behalf to secure for us the two pieces of ordnance, well known in the history of Texas as the "Twin Sisters." We are informed that they are now in the hands of the State of Louisiana, having been lately taken from the Federal government.¹²

Mr. Williamson reported on March 13 his efforts to recover the "Twin Sisters" in the following letter to O. M. Roberts:

On the 16th ultimo, while in your State, I was requested by the Committee of Public Safety to use my "individual efforts"

¹¹*State Gazette* (Austin), October 20, 1849.

¹²*Journal of the Secession Convention of Texas*, 308.

to procure arms for the State of Texas and also to procure the two pieces of ordnance used at the battle of San Jacinto, known as the "Twin Sisters" . . .

Immediately on my return I repaired to the State Capital, and after considerable inquiry found that the "Twin Sisters" had been sold several years ago to a foundry in Baton Rouge as *old iron*. Upon applying at the foundry I found one of the guns in a very neglected condition; and ascertained that the other was in the possession of a gentleman living in the Parish of Iberville. Having learned these facts, I addressed a letter to the Legislature, recommending that the guns be purchased by the State of Louisiana, put in good order, be well mounted, and presented to the State of Texas.¹³

The steps taken by the Louisiana Legislature in response to Mr. Williamson's letter are told by H. W. Allen, a member of the House of Representatives, in the following letter to Mr. Williamson:

Action was immediately taken on your letter, a committee¹⁴ appointed to procure the guns, mount the same in a handsome manner, with all the appurtenances for actual service. The sum of seven hundred dollars is appropriated to carry out the above, and the committee will have the pleasure of forwarding the guns in good order in ten or fifteen days.¹⁵

In an editorial correspondence for the *State Gazette* of April 20, 1861, the editor gives an account of his trip from New Orleans to Galveston; he says:

We brought with us over the Gulf the two cannon used so effectually on the 21st of April, 1836, at San Jacinto. I hope to see them properly taken charge of by the State authorities, and preserved as proud testimonials of the gallantry of the men of our revolution.¹⁶

The Ninth Legislature adopted a joint resolution, expressing appreciation of this mark of friendship on the part of Louisiana.

¹³*Ibid.*, 206.

¹⁴The committee was composed of Messrs. Allen, Austin and Brusle. (*Southern Intelligencer* (Austin), March 13, 1861, quoting the proceedings of the Louisiana Legislature.)

¹⁵*Journal of the Secession Convention of Texas*, 207.

¹⁶*State Gazette*, April 20, 1861.

Under date of November 30, 1863, Major A. G. Dickinson, commander of the Post at San Antonio, reported to S. T. Fountaine, chief of artillery and ordnance, district of Texas, that "the 'Twin Sisters' I am informed, are at or in camp in the vicinity of Austin. They are in a deplorable condition, and I am fearful could not be used."¹⁷

This is the last official notice of the "Twin Sisters" written before trace of them was lost. Much has since been written concerning the disposition made of them and their present whereabouts, but in every case where examination has been practicable its erroneous character has been proved. During the years 1909 and 1910, Mr. W. C. Day, State Superintendent of Public Buildings and Grounds, made a careful investigation of every clue he could find. He was at that time engaged in certain improvements at the San Jacinto battle ground. The results of his endeavors were almost entirely negative, the only bit of substantial information added being that found by Mr. Ben C. Stuart, set forth below. Mr. Day summed up the matter as follows:

I have received nearly one hundred letters, placing them [the "Twin Sisters"] in nearly as many different places, extending from Washington, D. C., to Santa Fé, N. M. Some of them are made of brass and some of them of iron, with all sorts of inscriptions. . . .

They have been buried in whole and in part; have been dumped into the Gulf of Mexico; resurrected from the Colorado River; discovered in some Louisiana Bayou; have been found in the Navy Yard at Washington, and have petrified on the plains of New Mexico.¹⁸

Mr. Ben C. Stuart, a veteran newspaper man, then a resident of Hitchcock, Texas, now of Beaumont, sent a brief sketch of the "Twin Sisters" to the *Cincinnati Enquirer*. As a result of this article, Mr. M. A. Sweetman, of Circleville, Ohio, wrote to

¹⁷Official records of the Union and Confederate Armies, I, 26, Part 2, p. 459.

¹⁸*Houston Post*, June 6, 1910. The following references are given for the curious who may wish to go into this matter: *Austin Statesman*, October 3, 1909; *Dallas News*, June 9 and 24, and November 19, 1909; *Galveston News*, April 16 and 23, and May 1, 1893; *Houston Chronicle*, November 10, 14, and 24, 1915; *Houston Post*, August 11, 15, 21, 22, and 30, 1909; *The Story of Corpus Christi*, 111.

Mr. Stuart, informing him of the facts concerning the "Twin Sisters" in his possession. The letter from which extracts are here quoted is dated October 20, 1909:

In the latter part of the month of July, 1865, the One Hundred and Fourteenth Regiment, Ohio Volunteer Infantry, of which I was then a member, was quartered in the Kennedy Building, in the City of Houston, Texas. . . . On some vacant ground, immediately north and back of the Kennedy Building, on July 30, 1865,¹⁹ I saw a number of old cannon. . . . Among these guns were two short and very common-looking iron 24-pounders, entirely dismounted, and with the following inscription, in small capitals, engraved deeply on each:

<p style="text-align: center;">Presented to The Republic of Texas by Maj. Gen. T. J. Chambers</p>

On brass plates, attached to the wooden carriages of each of two other guns, iron six-pounders, much more symmetrical in shape and appearance, was the following, the first line in old English:²⁰

<p style="text-align: center;">"Twin Sisters" This gun was used with terrible effect at the Battle of San Jacinto. Presented to the State of Texas by the State of Louisiana, March 4, 1861. Henry W. Allen, Charles C. Brusle, William G. Austin, Committee of Presentation.</p>
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¹⁹In a subsequent letter to Mr. Day, Mr. Sweetman said, "The inscriptions were copied in a small book which I still have in my possession, and the date mentioned is July 30, 1865." (*Houston Post*, June 6, 1910.)

²⁰*Galveston News*, November 14, 1909. In his letter to Mr. Day, Mr. Sweetman said, "The inscription on the 'Twin Sisters' as published in the *News* contains all the words, though the lines are not divided exactly as they appeared on the plate, and as I copied them in my book." (*Houston Post*, June 6, 1910.)

BRITISH CORRESPONDENCE CONCERNING TEXAS

XXIII

EDITED BY EPHRAIM DOUGLASS ADAMS

ELLIOT TO ABERDEEN¹

No 32

New York.

December 14th. 1845

My Lord,

I have the honour to acquaint Your Lordship that the Constitution of the proposed State of Texas has been forwarded by the Government of that Country to the United States by a special Messenger.

The expectation was generally entertained that there it would be adopted before this Christmas recess. Your Lordship will have better means of judging of the accuracy of that impression than I can furnish, and of all other considerations affecting the progress or final disposal of the Measure by the Legislature of the United States.

Charles Elliot

To The Right Honourable

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²

Private.

New York,

Decr. 14th 1845

My Lord,

I take the liberty to forward Your Lordship the copy of a private letter which I have recently received from Colonel George Hockley of Texas. This Gentleman, who is a person of honour and character, was Secretary of War during considerable part of General Houston's second Administration, and like his friend Mr. Terrell, has always been the steady opponent of Annexation, speaking and voting against it in every phase and stage of the transaction.

¹F. O. Texas, Vol. 13.

²F. O. Texas, Vol. 14.

May I hope Your Lordship will suffer my Agent in the Foreign Office, Mr Conyngham, to forward me any information which the Consul General in Guatemala may have furnished respecting the Colonization project noticed by Colonel Hockley

I shall of course be careful not to mention the source from which this information comes, or in any way to commit Her Majesty's Government. But I think Your Lordship will desire to do any thing which can be done properly in furtherance of the wishes of Gentlemen who have always steadfastly and honorably adhered to their pledges, direct and implied, to sustain the separate existence and independence of Texas.

I have mentioned to Mr Conyngham that I have had the honour to address Your Lordship privately on a subject to which I would ask his kind attention, if Your Lordship should see fit to place this letter in his hands and permit him to furnish the information sought. I should also add that I have thought it proper not to apply to any other source either in England or in Guatemala, in case Your Lordship should disapprove of any step being taken in the matter.

In concluding these few lines I would wish to state my impression formed both upon personal observation, and reliable information, that the party in Texas adverse to Annexation is respectable both in point of numbers and character, and there seems no want of reason to think that the time may come, (perhaps at no very remote period,) when it would be well that the leaders of that party should have some ground for believing that their right conduct and steadiness had not been lost upon the friends of the Independence of Texas.

Charles Elliot

To The Earl of Aberdeen, K. T.

HOCKLEY TO ELLIOT³

[Enclosure]

Copy.

Charles Elliot

Dear Sir,

Galveston

14th. Novr. 1845.

In conjunction with a few of my friends I have it in contemplation to decline any participation in the honors and ad-

³F. O. Texas, Vol. 14.

vantages consequent upon the Annexation of Texas to the United States, and have turned over attention to a new Colonization, and are desirous of some information relative to the Eastern Coasts of Central America. I am informed that a Company of British Capitalists was formed, probably about the latter end of the year 1839 for the purpose of Colonizing at Guatamala, but cannot trace it's progress, or ascertain the fact of any having been made.

I hope that you will excuse the trouble I give in making this hasty request (the boat is leaving, and I have but now obtained your address) that you will give me such information as may be of service relating to this matter, at as early a period as convenient. I presume about 8 or 9 hundred families, or more, can be enlisted in this enterprize, *and some names given to you* with which you have been familiar and *acted with*, whilst in Texas, in case we see a probability of success. Meanwhile we wish the matter to be kept profoundly secret, so far as it can be done. The Company alluded to was styled the Eastern Coast and "Central America Commercial and Agricultural Company." The Directors were P. H. Abbot Esqr. Capt P. H. Bingham, R. N, Charles Bourjet Esqr, John Darrow. Esqr, Wm Hood Esqr., Adam Murray, Esqr, John Spurgin Esqr, M. D., David Pollock, Esqr. I regret that the departure of the Steamer forces me to the abrupt conclusion with which I subscribe myself.

Geo. Wm Hockley

To Captain Charles Elliot.

[Endorsed.] Capt Elliot's Priv. Decr 14. 1845

KENNEDY TO ABERDEEN⁴

No. 36.

Her Majesty's Consulate
Galveston,
December 20th 1845.

My Lord,

In a letter written by General Andrew Jackson, and published some months before his death, he observed—(on behalf of the American people)—“We want Texas because we want California.”—The Ex-President might have added,—“And we want

⁴F. O. Texas, Vol. 14.

California because we desire to obtain Maritime ascendancy in the Pacific, with the advantages consequent on an easy and comparatively speedy communication with India and China.

An Extract (which I have the honor to enclose) from a Despatch addressed by Mr. Forsyth,⁵ Secretary of State of the United States, to Mr. Butler, American Charge d'Affaires in Mexico, shows that, in the year 1835, Texas and California were associated as desirable acquisitions, in the policy of President Jackson's administration.⁶

An Extract (also enclosed herewith) from a Speech delivered at St Louis, Missouri, on the 14th October 1844, by Colonel Thos. H. Benton, a Member of the Senate of the United States, shows that the idea of securing an ascendancy in the trade with India and China, by means of Settlements on the North West Coast of America, is not new to the minds of American Statesmen.

The United States have ceased to affect any disguise as to their determination to possess themselves of Upper California, and their ingenuity is actively employed in planning railway and other lines of communication across the Continent, in order that "a new route, almost exclusively American," may thereby be "opened to Asiatic Commerce."

It may be inferred from the pertinacity displayed by American Statesmen in regard to the acquisition of Texas, that they are not likely to abandon any project which may promise an increase of the elements of National power. Such a project may be masked—or it may be allowed to slumber for a time—but it will not be lost sight of—much less abandoned.

Intoxicated by the acquisition of Texas (the Key-stone of the North American System)—an acquisition made with an ease that astonished even themselves, the United States have allowed

⁵John Forsyth, b. 1780, d. 1841, a leading politician of Georgia, holding various State offices, and serving in Congress in both House and Senate, 1813-1819. In 1819 he went to Spain as Minister and negotiated the Florida treaty. He was again prominent in State and national politics, 1823-1834, but in the latter year resigned from the Senate to become Jackson's secretary of state, and held the post under Van Buren also until March, 1841. (Appleton, *Cyclop. of Am. Biography*.)

⁶Forsyth to Butler, August 6, 1835, in which Butler was instructed to purchase, if possible, a portion of California to include San Francisco Bay, but not to seek to acquire Monterey. (In U. S. Docs., Ser. No. 311, Doc. 42, p. 18.)

free scope to the spirit of bold disclosure concerning schemes of prospective aggrandizement. Among their leading politicians, no one pretends to doubt that the Northern Confederacy is destined, and at no remote day, to be the ruling Power of the world—giving to other States the impress of Republican institutions

But of their politicians,—even of the class, professing the most rigid principles of democracy, there are two divisions.—one of which is for immediate extension of territory, regardless of consequences,—the other for what is termed a “masterly inactivity”—that is trusting to the helping influences of time. In risking a collision with old Sovereignities, the former hope for success through the sympathies of kindred opinion—in procrastinating cherished Measures, the latter calculate that a few years will bring within their reach, without cost and without danger, what they—more cautious, or more experienced, or better informed than their fellows—feel and fear, if precipitately snatched at, would be productive of both. The stationary condition of Europe and the rapid progress of the Union are the stimulating topics with the first democratic Section; the concentrated energy of Monarchies, the Military strength of European Sovereignities, and the certainty of an early and vast addition to the already large resources of America, are the prudential pleas of the second.—“We defeated Great Britain when our population was only three Millions, and we are now more than twenty”—say the advocates of instant action—“Be patient, and at peace, for one quarter of a Century”—reply the friends of delay—“and you will have a combination of agricultural, commercial and manufacturing wealth with numerical force, capable of commanding the first place among the Nations. The short term of five and twenty years, with no addition to the ordinary ratio of increase, will exhibit the United States with fifty Millions of inhabitants. Of felicitous events—such as wars between the great European Powers—we shall do well to avail ourselves—but let us avoid a premature expenditure of our resources. By pursuing this policy, Mexico, the West India islands, the trade of China and Hindostan, will, all in good time be our own”

This, My Lord, I believe to be a faithful though brief, tran-

script of opinion now ascendant in the United States. I by no means assume that either the facts referred to, or the views indicated, will be in the least degree novel to Your Lordship. I take leave to submit them because my opportunities of observation have been good—and because I entertain the conviction that these facts and these views can hardly be too frequent a subject of reflection to the Statesmen who at present administer the affairs of the British Empire.

William Kennedy.

The Earl of Aberdeen K. T.

[Enclosure].

Extract from a Speech delivered at St Louis, Missouri, by Colonel Thos. H. Benton, Senator from Missouri to the United States Congress, on the 14th of October, 1844.⁷

————— “In the year 1818, a Treaty was made to admit the British to a Joint occupation of the Columbia river, and another to cede the South Western part of Louisiana to the King of Spain. A Southern President, and a Southern Cabinet—a Democratic administration and a Southern administration made those Treaties. The Senate ratified them unanimously. The Newspaper Press saluted them with universal applause. The whole Country applauded them. Solitary and alone I denounced them. From the banks of the Mississippi, and from the station of a private Citizen, I denounced those Treaties in which all others concurred. And now I have the voice of a Nation repeating the self-same reasons for getting rid of those Treaties which I gave then for not making them, and recounting, as matter of history, the evils which I then foretold.

“Of the joint occupation Treaty, I then said—it was one sided and partial, yielding our territory, our river and our sea-port to the British, and getting nothing from them in return: that they would kill and expel our fur-traders—occupy and fortify the Country—set up a claim to the whole of it—and either fight us for it,—or offer to compromise by dividing our Country into two unequal parts, and taking the lion’s share to themselves. This is what I then said, and what the event now proves. And I then proposed the termination of all that policy by putting an end to

⁷F. O. Texas, Vol. 14.

the Treaty; and I urged the preservation of our own rights on the Oregon by Colonizing the Country and giving land to the emigrants. These are the Measures I recommended twenty-five years ago, and which are now pursued in relation to Oregon, and they have my cordial support. To put an end to the Treaty of Joint occupation, and to give land to the emigrants, is now the national policy, and the way to carry the Baltimore resolutions into effect.

“And I went further in my views upon Oregon than the exclusion of the British, and the preservation of our territorial rights. I looked across the Pacific Ocean, and I saw Eastern Asia full in sight. I traced an American Road to India* through our own dominions, and across that Sea!—I showed that a new route, almost exclusively American, was to be opened to Asiatic Commerce, and although the event has not yet fulfilled my expectations, nor the public mind advanced to my position, yet I still stand upon it and adhere to my vision of five and twenty years ago. I repeat again what I then said: I say the man is alive, full-grown, and listening to what I say (without believing it, perhaps) who will yet see the Asiatic Commerce traversing the North Pacific Ocean, entering the Oregon river, climbing the Western Slope of the Rocky Mountains, issuing from its gorges, and spreading its fertilizing streams over our widely extended Union!—The Steam-boat and the Steam-car have not yet exhausted their wonders. They have not yet found even their amplest and most appropriate theatres—the tranquil surface of the North Pacific Ocean, and the vast inclined plane which spreads East and West from the base of the Rocky Mountains. The magic boat and the flying car are not yet seen upon this ocean, nor upon this plane—but they will be seen there;—and St Louis, in Missouri, is yet to find herself as near to Canton as she now is to London—with a better and safer route, by land and sea, to China and Japan than she now has to France and Great Britain.”

*AMERICAN ROAD TO INDIA:—These words are in small capitals in the published Speech, which, I should suppose, had received the revision of Mr Benton himself, as it was printed, in

a pamphlet form,⁸ at St. Louis Missouri, from which place I obtained the copy now in my possession. W. K.

[Endorsed.] Enclosure No. 2. In Mr Consul Kennedy's Despatch No dated December. 1845

ELLIOT TO ABERDEEN⁹

No. 34.¹⁰

Decr. 24th. 1845.

My Lord,

On my way through Washington yesterday where I had the pleasure of some conversation with Mr Pakenham, I learnt that the resolutions annexing Texas to the United States had passed both Houses of Congress, and been approved by the President.

In pursuance to Your Lordship's instructions of the 3rd Instant, however, I am proceeding by Mail to Texas, and avail myself of an accidental delay at this point, to mention that the Messenger of that Government who brought on the Constitution of the new State, and is to take back it's adoption, is still detained at Washington.

Accident apart, therefore, I shall reach Texas in time to make the communication directed by Your Lordship in the despatch No 17, before the extinction of the Government of the Republic.

Charles Elliot

To The Right Honourable

The Earl of Aberdeen, K. T.'

KENNEDY TO ABERDEEN¹¹

No. 38.

Her Majesty's Consulate
Galveston December 31st 1845

My Lord,

I have the honor to transmit a Return of the Number of German Emigrants that arrived at Galveston during the year about to close, with the Names of the Ships in which they were con-

⁸This pamphlet is not generally available.

⁹F. O. Texas, Vol. 13.

¹⁰F. O. Texas, 13, Elliot to Aberdeen, No. 33, December 21, 1845, acknowledging receipt of despatches, has been omitted.

¹¹F. O. Texas, Vol. 14.

veyed, the Nations to which said ships belonged, and the Ports from which they Sailed.

The European emigration to Texas during 1845, has, with slight exception been exclusively German.

William Kennedy.

The Earl of Aberdeen, K. T.

[Enclosure.]

Return of the Number of German Emigrants that have arrived at the Port of Galveston from the 1st of January 1845 to the 31st of December of the same year, with the names of the Ships in which they were conveyed, the Nations to which said Vessels belonged, and the Ports from which they sailed.

Ship.	Nation	From	Number of Emigrants
Brig Johann Dethard.	Bremen	Bremen	120
“ Ferdinand	“	“	125
“ Herschel.	“	“	135
“ Arminius	“	“	125
“ Garonne	“	“	136
“ George Delcius	“	“	136
“ Margaretha	“	“	125
“ Auguste & Meline	“	“	147.
“ Weser	“	“	97.
“ Johann Dethard	“	“	130
Ship Everhard.	“	“	280
Barque Neptune	“	“	214
“ Hercules	“	“	164
“ B. Bohlen	“	“	184
“ Matador	Hanoverian	“	140
Schooner Gerona	Hanoverian	“	87.
Barque Harriet	Belgian	Antwerp	183
Brig. Alberdina	Oldenburg.	“	77.
Ship Washington	American	“	185
Barque Strabo	“	“	169.
“ Sarah Anne	“	“	125

Total number of German Emigrants 3084

[Endorsed] In Mr Consul Kennedy's despatch No 38. dated December 31st 1845.

ELLIOT TO ABERDEEN¹²No. 2.¹³

New Orleans.

Jany. 5. 1846.

My Lord.

I have the honour to acquaint Your Lordship that I arrived here yesterday morning, a few hours before the departure of a Steam boat for Galveston. Indisposition arising from the exhaustion of a long journey at this inclement season of the year, prevented me from availing myself of that opportunity: But observing in the Newspapers that the President of the United States had already signed the Annexation resolutions, and forwarded them to Texas by a Messenger, I deemed it suitable to lose no time in placing the Government of the Republic in possession of the Copy of Your Lordship's Despatch No 17 of last year. It was therefore transmitted to the Secretary of State by yesterday's boat, with the accompanying Note.¹⁴ I proceed to Texas in pursuance of Your Lordship's Instructions on the 8th Instant.

Charles Elliot

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN¹⁵

No. 3.

New Orleans.

Jany. 8th. 1846.

My Lord,

The delay of a day in the departure of the Steam boat by which I proceed to Texas enables me to forward to Your Lordship a noticeable letter extracted from a newspaper of this City.¹⁶

There may be some exaggeration in this account of the state of the force in Texas, but I have also heard from reliable sources that it is very unsatisfactory. The fact is that it is in a wrong

¹²F. O. Texas, Vol. 16.¹³F. O. Texas, 16, Elliot to Aberdeen, No. 1, January 5, 1846, has been omitted. It stated reasons for being unable at present to furnish a detailed list of his correspondence.¹⁴Elliot to Allen, January 4, 1846. (In Garrison, *Diplomatic Correspondence of the Republic of Texas*, III, 1203, in *Am. Hist. Assoc. Report*, 1908, II.)¹⁵F. O. Texas, Vol. 16.¹⁶Unidentified newspaper cutting.

position militarily considered. It should have been cantoned in the neighbourhood of San Antonio which is comparatively healthy, and where there is abundance of good water and forage. That point also covers the main routes into the Country, and owing to the rolling nature of it there, the force and their Material could always be moved in any direction that was necessary— on the Coast they are either in a swamp, for rain of any consequence renders the Country almost impracticable, or there is a drought with a total want of good water and forage. It was only necessary to hold Corpus Christi, or the nearest best water harbour to the Cantonment of the force with two or three light draught Gun boats, and a small armed steamer, I have long felt satisfied from my experience in this Country that the Americans are better fitted for the acquisition of territory by quiet encroachment than by military operations.

The Officers are almost universally excellent and high spirited, but the Government knows nothing of the care or management of the troops, or the mode of elevating their morals. They are for the most part foreigners too, or not of the good classes of native Citizens, and have necessarily not much pride in their profession. If Mexico were in the situation that it was ten years since I believe that this small force would have been effectually broken to pieces long ago. It was certainly assembled in an extremely confused and incomplete manner, and I am sure has been improperly posted since

Charles Elliot

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN¹⁷

Separate.

New Orleans.

January 8th, 1846.

My Lord,

I beg leave to transmit to Your Lordship an extract from the New York Herald Newspaper of the 22d Ultimo.¹⁸

¹⁷F. O. Texas, Vol. 16.

¹⁸The cutting enclosed is dated December 25, 1845.

The pretext for Mr Buchanan's¹⁹ censures was the concealment of the place of my destination when I left Texas in April last, but it may be that the success of my visit to Mexico is the foundation of this irritation. For Mr Buchanan possibly understands that when the popular intoxication has subsided in Texas there may be bitter repinings at the great sacrifice into which the people have been deluded and hurried, and indignation against the acts and devices and motives of the parties by whom, and for whose advantage, the act of excessive folly has been brought about.

Suffer me to remind Your Lordship that the two events of the dispositions of the Mexican Government towards accommodation on the basis of the independence of Texas, and the earnest desire of Her Majesty's Government that these dispositions should be met in a corresponding spirit by the Government of Texas, became known to me within a few days of each other at the end of March last. It had happened that just before that period, with the Annexation resolutions passed in the United States, and a party in power there, deeply committed to the Measure, I had considered that I could be of no further use on the spot for the present, and was in the intention of going to Charleston to meet my family. These intentions were generally known at Galveston when the *Electra* arrived,—but then followed the change of circumstances that led to my visit to Mexico.

The concealment of the place of my destination till something definite could be procured from Mexico, and laid before the public of Texas, was indispensably necessary to protect that Government against the indirect practices and proceedings to which they were exposed. No person was better aware of their situation in that respect than myself, and feeling that it was incumbent upon me in the spirit of my instructions, to second their wise and sincere desire to secure to the people of Texas a choice between independence on honourable terms, and the rash sacrifice of their Nationality, I adopted the course which has brought upon me the reprehension of a Gentleman of Mr. Buchanan's claims to direct and disinterested public conduct, and ingenuous political correspondence.

It was the last chance that was left of preventing serious public

¹⁹Buchanan was at this time secretary of state in Polk's cabinet.

mischief, fraught with consequences of the worst description to all parties concerned, and I felt that I ought not to reject it for the sake of avoiding the blame which I knew would be cast upon me in the highly probable contingency that has occurred.

Mr Buchanan's strictures do not affect me, for emulating the plainness with which he has spoken of me in papers that have found their way before the public, I must really say that in my estimation he is no more than the player of a chief part in an unprincipled public juggle, a plot for the spoliation of an unoffending and weak neighbour, brought to pass mainly by the betrayal of certain politicians of their friends and leaders for no higher detectable interests than their own, and those of land and stock jobbers, and internal Slave trade dealers; a passage, in fine, in that systematic practice of delusion and excitement upon the unreflecting masses of the American people, made drunk with wordy and senseless projects of aggrandizement, and whooped on to clamour for measures alike injurious to the honour and well understood interests of their Country.

Few persons, My Lord, can be better acquainted than myself with the history of the Annexation of Texas, from its origin to its accomplishment; and there is no confusion in my understanding between the influences and means which have compassed it, and the reluctant consent of eminent persons of both the great parties in the Country who have recently voted for it, in a sense, no doubt, that further opposition was unavailing, and would only serve to drive them into private life, at a moment when there is so much need for their efforts to avert worse mischief.

It cannot be justly imputed to me, if these papers should ever be submitted to the public, that I am making a general and unfounded attack upon the American people and their institutions. Nothing can be farther from my dispositions and intentions. I have lived more in America than in Europe for the last 30 years of my life, I have as many friends here as there; I have the firmest belief in the suitableness of their institutions as they were originally framed to the circumstances of the case, and to the fitness of those people for such institutions, and I know that there are as many reasonable and honourable persons in the United States as in any other part of the world, proportionably to the population

But it is unhappily equally true that if there were many times more; the course of public events would not be materially altered, for there is a great preponderance of ignorance, prejudice, and rashness, not only in the body of the people, but in the councils of the Nation, sinking more and more palpably to a very low level, by the rapidly deteriorating operation of universal suffrage. I am as sensible as any American can be, that this painful result does not spring from the original principle of their institutions, which was sound, but I believe that some of the most profound thinkers in America, have traced it to the revolutionary change from a representative to a pure democracy; a form of things that experience has shewn to be unstable, incompatible with peace, true freedom, and the elevation of the character of man; ever leading on the contrary, to the curse of military despotism as an escape from grovelling, and usually blood stained mob tyranny, knave incited.

Persons of high principle and independent conduct find their way less and less into public life in the United States, and it would be a libel to say that the public character of the present Government and Legislature afford fair average means of estimating the amount of public spirit, wisdom, and purity, in the Country. The real standard is much higher than that, but the voice of moderation and wisdom is silenced or borne down by the force of circumstances. These ultra democratic institutions, and the egregious flattery lavished on the people, have also had the effect of stamping a character of excessive exciteability and vanity upon the masses, making them ready instruments in the hands of adroit and reckless demagogues, always striving to over reach each other in practices upon the passions of the multitude. Some of the persons for example in high office to day, are supposed to have been sincerely opposed to the Annexation of Texas, but they nevertheless, in the phraseology of the Country, went in freely for it, as soon as it was clamoured up to be popular, for the sake of what must rather be called tripping up—than defeating, not merely their political opponents, but their avowed friends and leaders, and by this time there are persons of note in the Legislature, of the same party as themselves, striving as hard to out bid and out manoeuvre them.

Wrongful motives and intrigue have been imputed to the Governments of Great Britain and France and their Agents, in the affairs of Texas; with a force of assurance, which is certainly without parallel in the past, howsoever promising the future may be. There was indeed a profession of such motives and conduct in these affairs, but the whole world knows from whence it came, and in that strife of personal rivalry and unscrupulous over reaching which gave a form and substance to what originally was no more than the desperate conception of a feeble and expiring administration, it is deeply to be lamented that claims of the highest order upon the consideration of American Statesmen, were totally sacrificed.

Mr Buchanan has probably little or no personal knowledge of the Southern parts of this Country, and I think fairly enough of him to believe that if he could witness the shocking increase of the internal Slave trade which Annexation has induced, if he could see hundreds of wretched and innocent persons linked to an ox chain, passing to the Southern Market through what is called a land of freedom, and hundreds more standing day after day exposed for sale, like cattle in the market places, tricked out to catch the eye of criticizing purchasers, their persons arrayed in holiday attire, and their countenances clothed with all the ominous expression of settled grief, and shame, and sullen indignation; I say, I cannot but believe that such a dismal sight, and the reflection it must produce in any commonly generous mind would awake Mr Buchanan's conscience to the fact that there was a worse part, and worse offense in the affairs of Texas, than mine.

Turns in politics are not new to Mr Buchanan, no doubt conscientiously made. Let him assure himself that he could make no more honourable turn, nor more merciful and just to unborn generations, than to repent of the share he has had in this deeply wrongful transaction. Let him strain every effort of his heart and understanding to prevent the old Slave States of this great Confederacy, founded upon the doctrine, true or false, that all men are born equal; from becoming breeding pens of human cattle for the Slave supply of an immense territory, plundered from a Country which had released it from the stain, and misery, and a rottenness that are the sure consequences of the system.

Position and explicable prejudice, joined to the recollection of the elevated characters of some of the chief advocates of this business, relieve them from any suspicion of sordid motive.—Fatally wrong and hasty they have indeed been, but no informed person questions their sincerity, or charges them with purposes of personal advantage. Such considerations cannot be advanced in the case of Mr Buchanan. He is for this worst description of Slave trade, or he is against it. If he is for it, he has acted congruously, but if he is against, his responsibility is as grave as it is possible to conceive.

The calm and deliberate judgment of his Country, and of all the friends of practical human rights awaits Mr Buchanan,—and all the other abettors of this scheme. The passing passions of the hour are with him, but a righteous decision cannot be long averted by fleeting popular excitement, or by the jargon of liberality, or mouthful professions of love for freedom, prefaced to votes and schemes in favour of an immense impulse to the most sordid and cruel oppression extant in Christendom

The Queen's Government know that I have done some things in my humble capacity, for freedom's sake, and suffered some for humanity, and for that sake, and not to satisfy any personal feeling, I make this answer to the light words Mr. Buchanan has spoken of me.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²⁰

No. 4.

Houston

January 13th. 1846.

My Lord,

I have the honour to acquaint Your Lordship that I arrived here this Morning on my way to Austin, but met the President going down to Galveston, to which place he has requested me to return with him.

The Messenger from the President of the United States with the Annexation resolutions duly passed and approved by that Legis-

²⁰F. O. Texas, Vol. 16.

lature and Government also arrived here this Morning and I am informed by the President of Texas that the Legislature of the Proposed State will be assembled on the 16th Proximo, when the Government of the Republic will be dissolved.

He observed to me that Your Lordship's despatch No. 17, should be acknowledged by the Secretary of State on his return to this place where he was shortly expected; but he would take occasion to converse with me again upon the subject, at Galveston.

Charles Eliot

To The Right Honourable.

The Earl of Aberdeen. K. T.

ELLIOT TO ABERDEEN²¹

No. 5.

Galveston

January. 15th 1846.

My Lord,

The President conversed with me to day upon the subject of Your Lordship's despatch No 17 of 1845.

Her Majesty's Government might depend that the Treaties would be fully and faithfully executed by the Government of the Republic of Texas to the last moment of it's existence.

And, therefore, as nothing practical could arise during the brief survival of the present institutions of this Country, involving any question under the principles declared in Your Lordship's despatch, he thought that no more would be necessary, or indeed proper on the part of this Government, than a notice that the Communication had been recorded.

It was true that the Congress of the United States had already passed a law extending the revenue system of that Country over Texas, but that law could not go into operation because it was in contravention of the Constitution of the State of Texas, as accepted by the Legislature and Government of the United States. For that instrument provided that the Government and Laws of the Republic of Texas should remain in force, till the State Legislature should be in Session, and the State Government duly inaugurated.

The imposts therefore would be levied on Merchandize and pro-

²¹F. O. Texas, Vol. 16.

duce, whether coming from the United States or any other Country, under the tariff law of the Republic of Texas, till all the Conditions and formalities required by the Constitution of the State of Texas were fulfilled.

The Government of the Republic of Texas had no official means of communicating with the Government of the United States; And it seemed to him that the proper mode of bringing this subject to the knowledge of that Government would be to send a Copy of the despatch with the delegation of the State to the Congress of the United States, when those Gentlemen were duly elected, and went forward to prepare their duties

My own task being limited to the communication of the subject of the despatch, and placing a Copy of it in the hands of this Government, the conversation dropped.

I may mention that importers of goods to Texas from the United States, have been for some time past paying their duties according to the tariff law of the Republic of Texas, under protest, on the plea that the Country is already a Member of the North American Confederacy.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²²

No. 6.

Galveston.

January 18th 1846.

My Lord,

I have never observed any publication, official or otherwise, in the papers of this Country shewing the extent and particulars of the popular Vote on independence or Annexation, which the recent Assembly at Austin provided should be taken viva voce; and I made that remark to the President some days since. He said that the particulars had not been published because they had only heard from 20 Counties (there are 36 in the Republic) but so far as he could form a judgement he thought that the whole Vote would be about six thousand

I observed that, that number did not amount to what might safely

²²F. O. Texas, Vol. 16.

be taken to be one half of the whole vote of the Country; for nearly 14,000 persons had voted at the Presidential election in 1844. And yet it seemed strange that the Annexationists did not put forward their whole strength on such an occasion, if it were only to establish that vast preponderance in favour of it which has been so much insisted upon here and in the United States.

It was natural to think that persons in favour of the Measure would take some interest or pride in recording a *viva voce* Vote in that sense; and it was equally reasonable to suppose all things remembered, that it's opponents would abstain from writing down their names against the absorption of the Country in the North American Confederacy; An opposition which they had been loudly told would only serve to shew the insignificance of their number. The taking of the Vote, *viva voce*, contrary to the fundamental rule in their system, is of itself a subject of attentive reflection. Such a course was intended to stifle adverse opinion; And Your Lordship will not be surprised to learn that persons against Annexation generally abstained from recording their refusal to sacrifice independence to the plots and exigencies of dominant parties in the United States. Texas was already in the Military occupation of a force at the disposal of those parties, and the friends of independence, abandoned by their leaders, were naturally completely discouraged.

There can be no doubt that the great majority of the vote actually taken was on the side of Annexation, but in my mind it's shortness of what is known to be the full vote of the Country affords some fair index of the extent of opposite opinion; a party quieter than the successful, but certainly not less weighty in point of respectability and good sense.

The President adverted to the Mass Meetings in favour of Annexation held in all parts of the Country some months before the assembly of the body at Austin. They had left no doubt in his mind of the feeling and will of an immense majority of the people. It is to be remarked, however, that what are called Mass Meetings are usually assemblies of persons of one way of crying out, and there is a proneness on such occasions to exaggerate numbers, and intensity of feeling, and every circumstance connected with them.

The general tendency of the people of this part of the world

to excitement and exaggeration, is also always extraordinarily developed in their political heats and the description of their political assemblages and successes. I attach little credit to their own statement on such matters; at all events, exact numbers furnish safer conclusions, and the smallness of the general Vote on this question is most remarkable. The want too, of the official publication of the number of persons actually voting, and the fact that the majority has been deduced from the Vote of 20 Counties only out of 36 (no doubt the most populous in the Republic) are significant circumstances, and may sooner or later be matter of some interest.

The present Government of Texas, fairly disposed I am sure, were effectually prevented from giving one party any time or reasonable chance to recover from their delusion, or to extend to the other even that limited protection which the ballot would have afforded to persons desiring to save the independence of the Country. In fact the whole transaction is the success of an unscrupulous intrigue, set on foot in the United States for certain personal objects, on false pretences, and carried out from beginning to end by all manner of indirect and irregular proceedings

The opinion of very distinguished persons in the United States has strengthened my own belief that the measure is in a high degree dangerous to the integrity of that Confederacy; And when the popular excitement in favour of it has subsided, it may be depended upon that the manner of it's accomplishment will aggravate the angry feeling of which it cannot fail to be productive.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²³

No. 7.

Galveston.

January 20th. 1846.

My Lord,

I have the honour to forward to Your Lordship the "National Register" Newspaper of the 29th November last, containing²⁴

²³F. O. Texas, Vol. 16.

²⁴Elliot here lists six of the nine documents already transmitted by Kennedy. (See THE QUARTERLY, XX, 402.)

1st. The proclamation of the President of Texas declaring that the Constitution of the proposed State of Texas adopted by a Convention of Deputies at Austin on the 28th August last, had been Ratified by a Majority of the popular Vote. There has been no proclamation setting forth the popular decision on independence or Annexation, and no publication, official or otherwise, of the amount of the whole Vote on that question, or on the popular ratification of the State Constitution. But I think from the best sources of information within my reach that the whole vote taken is overstated in my despatch No. 6.

2d. The proclamation of the President of Texas directing that Elections be held for the choice of Governor, and Lieut-Governor, and Senators and representatives of the State Legislature.

3d. Copy of a letter from the Honble Anson Jones to the Honble. J. Reily Texian Chargé d'Affaires to the U. S. Jany. 20th 1842.

4th. Copy of a letter (strictly confidential) from General Houston to W. S. Murphy formerly Chargé d'Affaires of the U. S. in Texas. Feby. 3d 1844.

5th. Copy of a letter from General Houston (Confidential) to Mr Van Zandt Chargé d'Affaires of Texas in the U. S. Jany. 29th 1844.

6th. Copy of a Message (Secret) from General Houston, President of Texas, to Congress. Jany. 20th 1844.

I abstain from making any comment upon some of these papers at present; but this is a convenient occasion to state that there is little doubt of the election of General Houston and the present President to the Senate of the United States by the Legislature of the proposed State.

No person is more sensible than myself of the difficulties, indeed of the dangers to which they were exposed. Neither am I ignorant of the influences brought to bear upon one of them, and the prospects held out to him. The degree in which the first moved his private feelings, and the extent to which the last bewildered his judgment may be hard to distinguish. That both causes operated cannot be denied, but that he was acted upon more by his

impulses of attachment for an individual, than by less excuseable motives, I am well assured.²⁵

It is not my purpose however, to dwell upon such topics; but I must remark that the election of these two Gentlemen to the Senate of the United States will be a conclusive answer from Texas to all the false charge respecting British and French intrigue, and undue interference in the Affairs of this Country. They will be sent there not only because it is perfectly known here that those statements have no foundation, but because it will be felt that they have done what they could for the true welfare of the Country, and the leaning they undoubtedly had to the preservation of the independence of the Republic, will not be their worst recommendation to the second thought of this deluded people. The friends of independence will be on their side, and the result of the popular vote on independence or the sacrifice of it, convincingly establishes the existence of a much larger party in Texas, rightly and honourably disposed, than could be inferred from President Polk's recent fanciful statement to the American Congress.²⁶

I take the liberty to express the opinion that this transaction, or the manner of it will not be durably felt in the United States to be a satisfactory subject of national congratulation; and I think it will be judged in sound quarters that the figure of the popular Vote in Texas speaks more accurately and authentically upon the subject, than inflated figures of speech. One of the two probable Senators for Texas has been charged in the Government paper of the United States with guilty participation in foreign intrigue (little short of treason, I believe, was the express language) and the other has been denounced over and over again by a representative of the United States in Texas, as adverse to the connexion with the North American Confederacy, and in secret and treasonable understanding with Mexico, and certain European powers.

Their election under such circumstances is irreconcilable with Mr Polk's imagination of "the almost unanimous voice of the people of Texas" in rebuke of the intrigues of Great Britain and France in this Country— They have administered the affairs of

²⁵That is, Houston's personal attachment to Jackson.

²⁶Polk's first annual message, December 2, 1845, in which he spoke of the "almost unanimous voice" of Texas in favor of annexation.

Texas during the last five years, they have given the flattest contradiction to Mr Polk's charge of improper interference by Great Britain and France in official papers; they have passed unscathed through all the attack and scrutinizing enquiry to which they have been exposed in that sense, and their election to the Senate of the United States will be the rebuke of the people of Texas for that kind of groundless accusation.

The people of Texas are already beginning to awaken from their delusion, and may soon recollect that there was no movement of active interference in their behalf by the Government of the United States when it was most needed, or until Texas was about to settle on an honourable and advantageous footing without it, and particularly, until an approaching Presidential election in the United States made it a convenient subject for speculating politicians to agitate and turn to their own account.

When the people of Texas too, become restored to a sober sense of what is past and gone, it may occur to them that the Agents of Great Britain and France never forget that they were sent to the Government they had chosen, and not to operate upon the passions or prejudices of the unreflecting, or to practice upon leading men in the Country by indirect means, and offers of high place and station, present and prospective.

The President of the United States in his Message closes his reflections on Annexation, with a paragraph, every sentence of which, rightly explained, contains as just a Comment upon the transaction as language could have supplied. "If we consider," says Mr. Polk the "extent of territory involved in the Annexation, it's prospective influence on America, the means by which it has been accomplished, springing purely from the choice of the people to share the blessings of our Union, the history of the world may be challenged to furnish a parallel." The extent of territory involved; that is, territory six times as large as the territory in the occupation of the Texians, belonging to a weak and unoffending Neighbour, and secured to her by treaty. It's prospective influence on America, that is in fact, the prospective influence on America of continued violation of compact, and increasing spoliation by the Government of this Country on feeble Powers.

The means by which it has been accomplished; that is means

which cannot bear the light, but springing, according to this account, purely from the choice of the people themselves to share the blessings of the Union. All idea of freedom of choice by the people themselves is purely imaginary. The circumstances and facts of the case contradict it, and at least two thirds of the people abstained from voting at all, or voted against Annexation. Concerning these conceptions of the blessings of the Union, it seems highly probable that a very large part of the people of the Union will determine in no long lapse of time, that a great impulse to the internal Slave trade, and a vast extension of the principle of Slave representation in the Councils of the Nation, are not blessings to the Union, but danger and shame.

Mr Polk is warranted in his confidence that the history of the world may be challenged to permit a parallel to this affair, or it may be added, to the deliberate composure of his account of it.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²⁷

No. 8.

Galveston

Jany. 23d 1846.

My Lord,

I have the honour to forward the Copy of a Circular from the Secretary of the Treasury of the United States, extracted from the Union Newspaper of the 8th Instant, which reached this place to day; and I have also to report that the same paper contains the appointment by the President of the United States, by and with the consent of the Senate of Mr Hiram G. Reynolds to be "Collector of the Customs for the district of Texas, and Inspector of the Revenue for the Port of Galveston in the State of Texas."

Your Lordship is aware that the President of Texas considers that the separate Sovereignty of this Republic, and it's Laws and institutions, remain in unimpaired force till the State Legislature shall have assembled, and the State Government has been duly established agreeably to the terms of the Constitution of the proposed State of Texas; the acceptance of which Constitution by the

²⁷F. O. Texas, Vol. 16.

United States in all its details and to its full extent, the President says, formed part of the compact between the two Countries for the Annexation of Texas to the North American Confederacy.

It appears, however, from some recent Laws and appointments in the United States, not merely fiscal, but extending the federal Judiciary system over Texas that in point of principle there is a conflict between the Sovereignities, and Legislatures of the two Countries.

I forward for Your Lordship's examination a Copy of the Constitution of the proposed State,²⁸ begging to observe that I have marked the passage bearing on this subject.

Charles Eliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²⁹

No. 9.

Galveston.

Jany. 26th. 1846.

My Lord,

I have the honour to acquaint Your Lordship that the President left this place a few days since to return to his plantation on the Brazos, intending to remain there till it is time to proceed to Austin and meet the State Legislature, convened for the 16th Proximo.

In his absence, and that of the Secretary of State from Austin, I have considered myself at liberty to remain where I am, for I am not in good health; though that circumstance should not have prevented me from proceeding to any point where the Government of Texas was residing, and discharging the duty committed to me in Your Lordship's despatch No. 17 of 1845.

Charles Elliot

To The Right Honourable

The Earl of Aberdeen, K. T.

²⁸*The Civilian and Galveston Gazette*, Extra, September 6, 1845.

²⁹F. O. Texas, Vol. 16.

ELLIOT TO ABERDEEN³⁰

No. 10.

Galveston.

Jany. 26th. 1846.

My Lord,

Taking the liberty to refer Your Lordship to my despatch No. 7. I would beg leave to say a few words upon the contrariety between the language which the late and present Presidents of Texas held to me for communication to Her Majesty's Government, and that which has otherwise found it's way before the public.

Your Lordship is aware that they both frequently assured me they preferred the separate existence and independence of the Country, recognized by Mexico, to it's absorption in the North American Confederacy, and that they have both over and over again as well to me, as in formal public papers, expressed their perfect confidence in the friendly and unconditional support and just purposes of Her Majesty's Government.

General Houston ever since I have known him, has always been more emphatic in the expression of his determined opposition against Annexation than the present President, and more sanguine in his avowed belief that the people of this Country would never sacrifice their independence if it's acknowledgment could be secured from Mexico. Speaking of Mr. Jones I believe that he went as far as he could, to secure a wiser and more honourable turn than affairs had taken.

But it is not to be denied that a time arrived when General Houston was acted upon by influence which succeeded, not indeed in engaging him in any active sense, overtly or otherwise, favour of Annexation, (at least till a very late period, and only after the election of the Deputies had made it certain that the Measure would be carried in Texas, or if not after that period, very close upon it). But those influences effectually succeeded to the extent of keeping him passive and observant throughout a critical state of public feeling in this Country.

What the result might have been if General Houston, supported as he would have been, had decisively interposed at an early stage in favour of independence, I cannot say, and I am aware that his situation was difficult. But at all events it is manifest that

³⁰F. O. Texas, Vol. 16.

by openly and steadfastly adhering from first to last to that choice which he sincerely believed to be for the honour and advantage of the Country he would have gained for himself a high and enduring reputation. If General Houston had said some of the things which I have seen imputed to him in the prints of the United States respecting his public transactions with Great Britain and France, I am concerned for him, and if he has not, as I learn that he denies he has, it must be painful to his friends that there has been no public and direct refutation of reports so wrongful and injurious to him.

In concluding, however, I will take the liberty to say that prominent persons in such a political scheme as this, should always be judged with much allowance for varying language, and seemingly changing conduct of affairs. For it cannot be denied that directness would generally be extremely hazardous to them in moments of crisis, and it must also be remembered that their power to avert mischief is quite incommensurate with their political risks. In fact I have learnt in my experience that irresponsible despotism, as a rule, produces very similar results on persons in high station, whether it be the despotism of a capricious Asiatic Prince, or of multitudes in possession of uncontrolled power, too often taking Council of bad advisers and their own passions, amidst shouts for what is absurd and unjust, and groans for what is wise and right.

The Competitors and enemies of eminent men in either of these cases constantly succeed in casting them into situations in which there is no choice between a complete violation of conscience, or that sacrifice of political prospect. In the first indeed, in addition to the loss of power, there is sometimes loss of life, or chains and banishment, but in some compensation for these occasional cruelties it may be that good councils and justice more frequently resume their sway over a single despot, than over a despotic multitude lashed into a condition of ever recurring excitement and delusion by eager rivals for their suffrages.

It is rather a matter of surprize that there should be so many public men in America constant to common sense and justice, than that there should be many more skilful in catching the turn of

events, and unscrupulous in tergiversation; or still greater numbers, drifting with the popular tide, let it run which way it will.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN³¹

No. 12.³²

Galveston.

February 1st 1846.

My Lord,

It is currently reported here that the last steam boat from New Orleans with dates from that place of the 27th Ulto. and from Washington of the 17th has brought orders to the force at Corpus Christi to advance forthwith to the Rio Grande. But judging from the very short time that the intelligence of the recent changes³³ in Mexico, and the withdrawal, or the reported withdrawal of Mr. Slidell³⁴ from thence could have been known by the United States Government at our latest dates from Washington, it may be that nothing beyond instructions for early movement have come on as yet: But trust worthy information from Corpus Christi as late as the 23d. Ulto I think the American force in Texas may be nearly stated, as follows.

Infantry about	2,600	} at Corpus. Christi
Dragoons Do	400	
Horse Artillery Do.....	220	

and two troops of Dragoons detached at San Antonio de Bejar and Austin.

Their field Artillery is reported to consist of 12 Guns, and Six of heavier Calibre mounted as battering Guns on their field defences. The Material and efficiency of this part of the force are

³¹F. O. Texas, Vol. 16.

³²F. O. Texas, 16, Elliot to Aberdeen, No. 11, January 27, 1846, has been omitted. It transmitted printed copies of the Journal of the Texan Convention of 1845.

³³The revolution of Paredes against Herrera.

³⁴Slidell, who was a member of Congress from Louisiana in 1845, was in that year sent to Mexico to "adjust difficulties," but in reality to purchase California if possible. He was unsuccessful.

best spoken of; but their horses as well as those of the Cavalry have the appearance of having suffered severely from bad water and exposure. The people are still under canvass, and I learn that there were about 80 men in the hospitals, and that they have lost rather more than that number by death and the same by desertion. Large proportion of the force are Irish, and Germans and other foreigners; indeed it is said that not more than a fifth of the whole are of American birth.

The swampy condition of the lower Country would prevent them from moving immediately even if the orders have come on, but if the weather should continue fine for 10 days or a fortnight they would be able to do so, and I should add that they have been collecting transport since their arrival in Texas, and I believe have now enough for movement to any points on the lower Rio Grande which they propose to advance upon.

If they do move, the Brassos, San Jago would I conclude be immediately occupied both by troops and by such light armed vessels as could be got into that anchorage. The best water there may be about $8\frac{1}{2}$ feet, but the position would be necessary for their supplies and communications. There is no Naval force of any kind upon this Coast except one revenue schooner; engaged in a survey under the direction of two officers of the Engineer Corps.

Charles Elliot

To The Right Honourable.

The Earl of Aberdeen. K. T.

ELLIOT TO ABERDEEN³⁵

No. 13.

Galveston

February 15th. 1846.

My Lord.

I have the honour to transmit the Copy of a Note from this Government, dated on the 4th Inst.³⁶—and in connexion with the subject of it, I take this occasion to forward to Your Lordship the Copy of a letter of instructions which I have this day addressed

³⁵F. O. Texas, Vol. 16.

³⁶Allen to Elliot, February 4, 1846. In Garrison, *Diplomatic Correspondence of the Republic of Texas*, III, 1204, in Am. Hist. Assoc. Report, 1908, II.

to Consul Kennedy. Thinking it possible that he might publish some notice respecting these matters, (which appears to me to be unnecessary and inexpedient) I have marked the letter "Confidential."

Charles Elliot

To The Right Honourable.

The Earl of Aberdeen. K. T.

BOOK REVIEWS AND NOTICES

The Single Tax Movement in the United States. By Arthur Nichols Young. (Princeton: Princeton University Press, 1916. Pp. x, 340.)

This book is unique, for, so far as the reviewer knows, it is the only one which deals exclusively with the Georgian single tax which was not written by a single taxer. The assumption of the reviewer that Professor Young is not a single taxer is based upon the lack of any bias in the book either for or against the single tax. The average single taxer is such an enthusiastic believer in his cause that whether speaking or writing he confesses his faith in no unmistakable terms; no Bertillon methods are required in his identification. Though he may not be a single taxer, Professor Young's treatment of his subject is so sympathetic and fair as to please the single taxer and not to antagonize the irreclaimable anti.

It is the lot of but few men to be the inspiration of an important popular movement. Henry George was such a man, and it is not surprising therefore that nearly the first half of Professor Young's book is devoted almost entirely to the life and labors of the great leader. The opening chapter of the book deals with the single tax idea before George's time, and though Professor Young concludes that George had been anticipated in all essential points by a number of writers, he credits George with having arrived at the ideas independently. The following chapter gives a description of California in the period of 1858-1878, in order that the reader may have the economic and political background for George's philosophy. The activities of George are then followed in detail from the appearance of *Progress and Poverty* in 1879 to his sudden death in the midst of the New York mayoralty campaign of 1897. Intimate stories and anecdotes about George hitherto unpublished add to the readable character of these biographical chapters.

The second half of the book is devoted to a descriptions of single tax experiments in the United States, and of the various attempts to get the single tax adopted. This part of the book

is especially valuable because it assembles data and information which anyone interested in the single tax has had difficulty in obtaining.

Some of his readers may disagree with Professor Young in the influence which he accords to Henry George and single taxers in the recent popularization of political economy. Changing economic conditions, such as the disappearance of free land, the growth of trusts, and the rise of prices, and the socialist movement are perhaps more influential than the single tax agitation. At the same time, the single tax is not to be unduly minimized, and in giving us an adequate and readable history of the movement Professor Young has done a most useful piece of work.

The University of Texas.

E. T. MILLER.

Our Hispanic Southwest. By Ernest Peixotto, with illustrations by the author. (New York: Charles Scribner's Sons, 1916. Pp. xx, 245.)

This book is not history but it gives some interesting facts about historic places. The illustrations are numerous, artistic, and apt. The language is ornate to a fault. It reads like a booster circular for a pleasure resort. If the entire book were confined to places along or near one railway system, as about half of it is, one might think it was a railroad advertising scheme in disguise. It will doubtless have the effect of stimulating travel through the Southwest. For the traveler in that region it will serve as a convenient guide-book to the most interesting historic places. Interspersed among the lengthy, extravagant, and tedious descriptions are a few important historic facts. The author has enjoyed close association with some of the best historians of the Southwest, and has studied, at least superficially, some very important primary historic material. No historian will go to this book for the facts of history, though with few exceptions it is true to the facts; but as a stimulus to the study of the history of the Southwest it is of value for those who do not find proximity irksome. The historic places described are New Orleans, San Antonio, El Paso, San Xavier del Bac, the Grand Cañon, Albuquerque, Santa Fé, and nearby places.

W. R. M.

NOTES AND FRAGMENTS

Mr. E. W. Winkler writes the editor: "Some of the Daughters of the Confederacy may write you in regard to the poem printed in the last number of the *QUARTERLY*.

"The enclosed copy varies in many details from the copy printed. Perhaps attention should be called to this fact, and the name of the author given in next issue." The copy furnished by Mr. Winkler follows:

THE LOST CAUSE

Representing nothing on God's earth now,
And naught in the waters below it;
As the pledge of a nation that passed away,
Keep it, dear friend, and show it.
Show it to those who will lend an ear
To the tale this trifle will tell,
Of Liberty born of a patriot's dream,
Of a storm-cradled nation that fell.

Too poor to possess the precious ores,
And too much of a stranger to borrow;
We issued today our "promise to pay,"
And hoped to redeem on the morrow.
The days rolled on, and weeks became years,
But our coffers were empty still;
Gold was so scarce, the Treasury quaked
If a dollar should drop in the till.

But the faith that was in us was strong indeed,
Though our poverty well we discerned,
And this little note represented the pay
That our suffering veterans earned.
They knew it had hardly a value in gold,
But as gold our soldiers received it;
It gazed in our eyes with a promise to pay,
And every true soldier believed it.

But our boys thought little of price or pay,
Or of bills that were overdue,
We knew if it bought our bread today,
'Twas the best our poor Country could do.
Keep it, it tells all our history o'er,
From the birth of the dream to its last;
Modest, and born of the Angel Hope
Like our hope of success, *it passed.*

The "Lost Cause" was written on the back of a Confederate note in March, 1865, by Major A. L. Jonas, of Mississippi. It was given to Miss Annie Rush, of New York City, at a levee held in Richmond, Va., in honor of Confederate officers, at the close of the war. Through Miss Rush, the now famous poem, was published in the *Metropolitan Record* of New York under the caption "Something Too Good to Be Lost." Major Jonas was accorded official recognition as the true author by the Daughters of the Confederacy at their convention held in Norfolk, Va., in 1907. At the same time the honor of reading the poem at the convention was conferred on the author's daughter, Miss S. L. Jonas, of Memphis, Tennessee.—*Preface, Confederate and Southern State Currency; Historical and Financial Data, Biographical Sketches, Descriptions, with Illustrations.* By William West Bradbeer.

NEWSPAPER CURIOSITIES.—Newspaper files are useful as historical sources. Unless associated with larger collections of newspapers, single numbers have little value except as curiosities. Perhaps, everyone who has charge of newspaper files has had copies of the following brought to his attention:

Ulster County Gazette, published at Kingston (Ulster County), by Samuel Freer and Son, Saturday, January 4, 1800. This paper gives an account of the death of George Washington; the rules on the inside pages are almost one-fourth inch wide. The Texas State Library has four copies of this paper, all bearing the same date, but they represent three different impressions. None, in all probability, was printed fifty years ago.

The Daily Citizen, Vicksburg, Miss., Thursday, July 2, 1862. The writer has recently had an opportunity to compare three

copies of this paper, bearing above date. Each copy was printed in four columns on the plain side of a figured wall paper. But each differed from the other. For purpose of reference they will be designated as A, B, and C. A and B belong to the Texas State Library; C belongs to a student of the University of Texas. The printed surface of A is nine and nine-sixteenths inches by seventeen and nine-sixteenths inches, of B it is eight and three-fourth inches by thirteen and one-half inches, and of C it is nine and seven-sixteenths inches by seventeen and five-sixteenths inches. A and C agree in number, order, and arrangement of the paragraphs, but the style of type used is different; consequently the matter does not correspond line for line. B is smaller in size, but uses a type about the same size as C, hence it became necessary to omit a portion of the text. From the copies in hand it is not possible to ascertain which, if any, is an original issue. A may be an original; the others are copies and, of course, more recent.

E. W. WINKLER.

NEWS ITEMS

Mr. W. Jack Bryan, through Mrs. Looscan, has presented to the Association a number of rare pamphlets. The most important are: "A campaign from Santa Fé to the Mississippi; being A History of the Old Sibley Brigade," by Theo. Noel, Fourth Texas Cavalry (Shreveport, 1865); "Proceedings of the Democratic State Convention of Texas" held in Galveston, April 2, 1860 (Galveston, 1860); "Statement of the Proceedings of the Convention of the National Democratic Party Held in Charleston, in April, 1860, that Led to the Withdrawal of Certain Delegates, and Proceedings of the Delegates that Withdrew" (Charleston, 1860); "Report of the Committee on Federal Relations Relative to the Admission of Kansas into the Federal Union," printed by order of the Texas Legislature (Austin, 1858).

Spanish and French Rivalry in the Gulf Region of the United States, 1678-1702: the Beginnings of Texas and Pensacola is the title of a volume by Dr. William Edward Dunn, and published as a Bulletin by the University of Texas. It will be reviewed by Professor Bolton in the October number of the QUARTERLY.

A Californian in South America is the title of a 59-page pamphlet, edited by Dr. Herbert I. Priestley of the University of California, just published in Berkeley. It deals with the journey of Dr. Charles E. Chapman of South America as the delegate of the University of California to the Congress of Bibliography and History at Buenos Aires in July, 1916. The pamphlet is composed of twelve documents, comprising the speeches and articles of Dr. Chapman in South America, the propaganda for an Hispanic American historical review, and articles on José Toribio Medina and South American archives.

Mr. Ingham S. Roberts has reprinted in the *Houston Chronicle*, March 2, 1917, an article published by his grandfather, of the same name, in *Hanford's Texas Register*, 1877. It is entitled, "What was gained and what was lost by Independence and Annexation of Texas."

The *Houston Post* of April 21, 1917, publishes a brief note on the family of Captain R. J. Calder, and gives some account of a pamphlet now in the possession of Captain Calder's daughter, Mrs. Joseph C. Williams, which describes how Captain Calder carried the news of the battle of San Jacinto to President Burnet on Galveston Island.

The Senate of Texas on April 27 accepted, with appropriate ceremonies, a portrait of General John A. Wharton. It was a gift from the survivors of Terry's Texas Rangers.

Dr. Herbert E. Bolton, Professor of American History at the University of California, has been appointed by President Butler of Columbia University a member of a committee of three to nominate candidates for the Loubat Prizes to be awarded by Columbia University at the Commencement in 1918. These prizes are of the value respectively of one thousand dollars and four hundred dollars. They are to be awarded for the two best works printed and published in the English language, since July 1, 1913, on the History, Geography, Archæology, Ethnology, Philology, or Numismatics of North America. Professor Paul Van Dyke, of Princeton University, and Professor William Milligan

Sloane, recently Seth Low Professor in Columbia, are the other two invited to serve on this committee to award the prizes.

The degree of doctor of philosophy in history was conferred upon the following men at the recent commencement at the University of California: E. S. Brown, Roy Gittinger, Charles W. Hackett, K. C. Leebrick, and Herbert I. Priestley. Dr. Brown's thesis is entitled: *The Constitutional History of the Louisiana Purchase*; Dr. Gittinger's, *The History of the Formation of the State of Oklahoma*; Dr. Hackett's, *The Uprising of the Pueblo Indians of New Mexico, 1680-1682*; Dr. Leebrick's, *The English Expedition to Manila in 1762 and the Government of the Philippine Islands by the East India Company*; Dr. Priestley's, *José de Galvéz, Visitor-General of New Spain, 1765-1771*. Dr. Priestley's book has been published, Dr. Leebrick's and Dr. Gittinger's are in press, and Dr. Hackett's and Dr. Brown's will be published soon.

The manuscript of Professor Charles E. Chapman's *Catalogue of Certain Materials in the Archivo General de Indias for the History of the American Southwest and Pacific Coast* has just gone to the Press of the University of California for publication in the semi-centennial series to be issued at that University in 1918. Professor Chapman's work will print to two volumes. It is based on the *Audiencia de Guadalajara* and *Audiencia de Mexico* sections of the Simancas, or *Audiencia*, papers and on the *Estado* group of the famous archive at Seville.

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OF THE

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XXI

OCTOBER, 1917

No. 2

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CONTENTS

THE MANILA GALLEON AND CALIFORNIA	- - - William Lytle Schurz	- - 107
NOTES ON EARLY TEXAS NEWSPAPERS, 1819-1836	- Eugene C. Barker	- - 127
THE ARCHIVO GENERAL DE INDIAS	- - - Charles E. Chapman	- - 145
CONTEMPORARY POETRY OF THE TEXAN REVOLUTION.		
Contributed by Alex Dienst	- - - - -	156
BRITISH CORRESPONDENCE CONCERNING TEXAS,		
XXIV	- - - - - Edited by Ephraim Douglass Adams	- - 185
BOOK REVIEWS AND NOTICES: Priestly, <i>José de Galvez, Visitor General of</i>		
<i>New Spain, 1765-1771</i>	- - - - -	214
NEWS ITEMS	- - - - -	220

PUBLISHED QUARTERLY BY

THE TEXAS STATE HISTORICAL ASSOCIATION

AUSTIN, TEXAS

Entered at the post-office, Austin, Texas, as second-class mail matter

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The Association was organized March 2, 1897. The annual dues are two dollars. THE QUARTERLY is sent free to all members.

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XXI

OCTOBER, 1917

No. 2

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THE MANILA GALLEON AND CALIFORNIA

WILLIAM LYTLE SCHURZ

Though their eastern course lay off its coast for so long, the Manila Galleon contributed less to a knowledge of the Californias than might have been expected. The apparent paucity of these geographical results can be attributed to several causes. In the first place, it was only during the earlier period of the navigation that the customary route of the galleons lay near enough to the upper California coast to make any discoveries possible. For, by the eighteenth century they generally made their landfall well down the coast, somewhere between Point Conception and Cape San Lucas. Even when they did follow the upper coast, they kept no nearer to it than was necessary to guide their course,—that is, to make out the more prominent landmarks. Moreover, after the long and perilous crossing from the Philippines pilots and captains were averse to taking the further risks involved in a close investigation of a rather rugged and forbidding coast. Commenting on this anxiety to keep clear of the coast, Diego de Bobadilla wrote in 1640: "The captain changed his course to the south, to avoid getting caught in the land, or in some gulf, whence he would have a hard time to get out."¹ Anson also said: "As there are many islands and some shoals adjacent to California, the extreme caution of the Spanish navi-

¹Bobadilla, *Relation des Iles Philippines*, in Blair and Robertson, *The Philippine Islands*, XXIX, 310.

gators makes them very apprehensive of being engaged with the land."² A further deterrent was the dense pall of fog that so often hung over the land, concealing reefs and headlands, and which has accounted for so many lost ships in our own time. The wrecking of the *San Agustín* near Point Reyes, and the narrow escape of the *Espíritu Santo* and the *Jesus María* from destruction near Cape Mendocino were effective reminders of the perils of the upper coast.³

The most serious lacuna in the exploration of the coast between Mendocino and San Lucas,—the failure to discover San Francisco Bay,—was doubtless due in part to the fog curtain which so often obscures the mouth of the bay. However, a more potent reason must have been the fact that the entrance is flanked to the north by Point Reyes, and guarded in front by the Farallones. Fear of complication with these and with the reefs that might lie behind the Farallones drove the Spanish pilots farther to seaward and outside the latter islets. And, in view of the southeasterly trend of the coast below Point Reyes, the more direct course for the galleons was actually the one pursued to the right of the Farallones.

Furthermore, the instructions carried by the galleons discouraged any departure from the routine track; and a too inquisitive pilot or captain, who would deviate from the beaten path to explore the land to his left, was prevented by the fear that his curiosity would be invoked against him in the *residencia* which was taken at the conclusion of the voyage.⁴ After all, these were preeminently merchant ships, and the business of exploration lay outside their field, though chance discoveries were welcomed.⁵

²A *Voyage Round the World in the Years MDCCXL, I, II, III, IV*, 335.

³For the case of the *San Agustín* see below; for the other galleons see Morga, *Sucesos*, in B. and R., XVI, 28.

⁴Las instrucciones que se dan á los Generales de los Galeones de esta carrera de la Nueva España, o á los que les subcedan en el cargo para que las guarden, cumplan y executen, hagan cumplir y guardar á todos los oficiales, pasajeros, Gente de Mar y Guerra en el discurso del Viage en ida, estada y buelta, 1743, *Archivo de Indias*, 68-6-38; and Arandía, *Ordenanzas de Marina*, 1757.

⁵"Si el Bagel tomare puerto en parage poco conocido por algun acaso o necesidad, procurará sacar su plano, si es posible. . . . Y recalando siempre sobre las costas de California, o si por accidente fuera otra la que se viere, notará todo lo que reconozca de particular de las corrientes,

There were two courses open to the galleon on the discovery of the *señas*.⁶ The one was to continue ahead until land was sighted before changing direction; the alternative was to veer to the southeast at once, and make land in the region of Lower California.⁷ The former was the usual procedure in the early history of the line, as the other route was generally followed in the later part, though there was no uniformity as to the exact course during either period. In the first case the landfall was made high up on the California coast, depending, naturally, on the latitude at which the crossing had been made. A convenient and customary point for demarcation was the great headland of Cape Mendocino, as Espiritu Santo on Samar and San Lucas on Lower California were similar landmarks at other points on the route.

However, the landfall might be made at any part of the coast to the south. Humboldt says that the first land sighted was the Santa Lucia Mountains, back of the Channel of Santa Barbara.⁸ Morga, after describing the upper California coast as a "very high and clear land," says of the course southward from Mendocino: "Without losing sight of land, the ship coasts along

sondas, variaciones de la Abuja, y demas que conduzca á su gobierno, y noticia de otros." *Ibid.*, 41.

The first *señas*, or signs of land, were sometimes met with several hundred miles from the American coast. There was a fairly regular succession of them as the galleon neared the land: first, the fungous *aguas malas*; then, at about a hundred leagues out, the *perillos*, "with head and ears like a dog and a tail like that they paint the mermaids with" (Gemelli Carei, in Churchill, *Voyages*, IV, 493); the *porras*, a yellow, onion-like herb, with long roots floating on the surface; finally, at thirty leagues or nearer, the *balsas*, or large bunches of grass. Morga, *op. cit.*, 204-5. Cabrera Bueno gives the color of the *porras* as green or red (*colorado*), and says that their roots were from three to four *brazos* long. *Navegacion especulativa y práctica*, 293. Cubero Sebastian, who likens them to beets, remarks as to their origin: "Vienen sobre el mar, arrojadas de aquellos caudalosos rios, que salen de aquella tierra incógnita de la Nueva España, que está en 38 á 40 grados." *Breve relacion*, 334. Cubero says of the *balsas*: "Estas hojas y raices quanto mas nos vamos llegando á tierra vienen juntas en cantidad, y los Marineros les llaman Balsas; encima destas Balsas vienen unos pescados á manera de Monillos, que los Marineros llaman Lobillos, y por mis mismos ojos los ví; juegan encima de las Balsas, y luego se zabullen dentro el agua."

⁷In the log of the *San Pedro* for October 22, 1778, in longitude 101 degrees, 25 minutes east of Manila, and latitude 31 degrees, 42 minutes, an entry reads: "We passed a green *porra*, and orders were given to steer ESE." *Diario de la fragata San Pedro*, *Archivo de Indias*, 108-4-25.

⁸*Essai politique*, IV, 102.

it with the NW, NNW, and N winds, which gradually prevail on the coast, blowing by day toward the land, and by night toward the sea again."⁹

For the ships that chose this route Cabrera Bueno gives the points of demarcation, which are practically in the reverse order of Vizcaino's *derrotero* of 1602.¹⁰ Turning SE by E from off Cape Mendocino, the next prominent landmark was Point Reyes, outside the sheltered harbor of Drake's Bay.¹¹ The galleons were directed not to follow the bend of the coast at this point, but to stand out a little to sea, in order to keep clear of the Farallones, which lie somewhat to the east of south.¹² Some thirty leagues south from Point Reyes the galleons sailed well out from the broad sweep of Monterey Bay, sighting the familiar Point Pinos. Thence the course lay down the barren coast by Point Concepcion, and through the Santa Barbara Channel, to the Lower California coast.¹³

⁹*Op. cit.* "She falls in first with the coast of California and then coasts along the shoar to the South again, and never misses a wind to bring her away from thence to Acapulco." Dampier, *Voyage*, I, 245.

¹⁰Cabrera Bueno, *op. cit.*, 303. Pedro Calderón Henriquez, a famous colonial official of the eighteenth century, said that this portion of Cabrera's book was based on Vizcaino's work. Calderón to Arriaga, February 24, 1769, *Archivo de Indias*, 107-1-17. For Vizcaino's voyage consult Bolton's *Spanish Exploration in the Southwest, 1542-1706*.

¹¹A document in the *Depósito Hidrográfico* at Madrid,—*Coleccion de Navarrete*, t. I, no. 15,—entitled, *Derrotero del viage de Nueva España para las Islas Filipinas y vuelta de ellas á la dicha Nueva España*, contains the following: "A la vuelta de lesueste hay una bahía grande, donde hay muchos Indios y agua, no hacen mal, comen vellotas en lugar de pan, y cangrejos. Estando en esta Bahía parecen unos islotes unos al sur, otros al luesudeste; si vinieres de mar en fuera apártate de ellos, que es tierra de 38½ grados." Though undated, this document is evidently of early date.

¹²"La nao de Filipinas navegará con confianza desde que aviste los Farallones del Puerto de San Francisco en Californias." Viceroy Branciforte to Diego de Gardoqui, June 26, 1796, *Archivo de Indias, Estado—Mexico, legajo* 6.

¹³Cabrera Bueno in one of the three courses which he describes, gives the following demarcation for a route involving a landfall in 35½ degrees: thence between the *cordillera* of islands and the mainland, southeast by south, along about seventy-five leagues of wooded coast, where an extra spar could be cut if there were need; to make land again at the island of Guadalupe in 29 degrees; thence a day's run to Cape San Lucas. *Op. cit.*, 295. The *San Antonio de Padua* in 1679 sighted land in 36 degrees, 29 minutes,—"some very high, whitish, and treeless mountains." Cubero Sebastian, *op. cit.*, 336. The *Rosario* made her landfall in 1702 at Point Concepcion, and the *Covadonga* in 1731 in 36 degrees, 20 minutes. *Ex-*

When the galleon turned to the southeast on the discovery of the *señas*, she made her landfall at some point along the lower coast. She sighted first either the island of Guadalupe, of Cenizas, or of Cedros.¹⁴ From the point of the peninsula she struck across to the neighborhood of Cape Corrientes, and coasted along thence to Acapulco.

The first motive for the settlement of California was the need for a way-station for these Manila Galleons.¹⁵ Cortez himself had visited the coast of the peninsula, and in 1542 the expedition of Cabrillo and Ferrelo ascended to the region of Cape Mendocino. The opening of the Philippine trade in 1566 not only increased the familiarity of the Spaniards with the coast to the southward of that promontory, but that very coast offered excellent places of refuge for the sea-worn galleons at this stage of their long voyage. Beaten by the winter storms of the north Pacific, and stricken with scurvy and famine, these vessels were in a distressful condition when they reached the shores of America. And a port between thirty and forty-two degrees—the higher the better—would have furnished a place for refitting and reprovisioning. Such ports actually existed in San Francisco and Monterey Bays.

One of the first to propose the exploration and occupation of California for this purpose was the Archbishop-Viceroy Moya de Contreras. It was he who commissioned Francisco Gali to explore the California coast with this end in view. Gali, who had already made the eastern passage from Macao,¹⁶ crossed to Manila

tracts from Journals of Voyages between the Philippines and New Spain, 1699-1731, British Museum, 19294.

¹⁴Las instrucciones, etc., *op. cit.*: Diario del viaje que hizo desde Manila á Acapulco el Galeon Santisima Trinidad, 1756-7, *Archivo de Indias*, 107-1-13.

¹⁵Bolton, *Spanish Exploration in the Southwest, 1542-1706*, 43. "Para proseguir el descubrimiento de aquella costa y tierra desde 41 grados á adelante es de mucha importancia, y muy necesario para la buelta de las Naos de Filipinas y de todas las partes del Poniente." Fray Andrés de Aguirre to the Archbishop-Viceroy, Moya de Contreras, 1584, *Depósito Hidrográfico, Coleccion de Navarrete*, t. 18, no. 30.

¹⁶The true and perfect description of a voyage performed and done by Francisco de Gualle . . . in the yeere of our Lord, 1584, in Hakluyt, *Voyages* (Hakluyt Society edition), IX, 326-37, taken from Linschoten's *Voyage*; Burney, *A Chronological History of the Voyages and Discoveries in the South Sea or Pacific Ocean*, II, 58-60. Navarrete describes Gali as "el hombre mas aventajado y de crédito que allí había, y que en materia

in the *San Juan*, and provided from the viceregal treasury with 10,000 pesos for the purchase of a new ship at Manila in case the *San Juan* should be considered unseaworthy for the further prosecution of the undertaking. On the return voyage to New Spain Gali was to chart the coast of Japan, the Island of the Armenian, and California. However, Gali died in Manila, and Pedro de Unamuno was selected to carry out the commission of Gali. Contrary to instructions Unamuno put into Macao, where he intended to make some investments for disposal at Acapulco.¹⁷ In his voyage across the Pacific he could find neither the Island of the Armenian, nor the other fabulous isles, Rica de Oro and Rica de Plata, whose existence was then believed in. On October 16, 1587, two small islands were discovered lying close to the mainland of America, and two days later he found a large bay which he named San Lucas, but which was very probably that of Monterey. Passing Lower California shortly after Cavendish had taken the *Santa Ana* in that vicinity, Unamuno reached Acapulco on November 22. No attempt was made to follow up the results of the voyage, which he had so unsatisfactorily recorded.¹⁸

In January, 1593, Philip II ordered the work to be taken up again, "for the security of the ships that come and go."¹⁹ In the *capitana* of the next year Viceroy Velasco sent out Sebastian Rodríguez de Cermenho, or Cermeñon, a Portuguese,—

de cosmografía podría competir con los mas escogidos de España." *Expediciones en busca del Paso del Noroeste de la America*, p. xlv. Even Navarrete accepted the evidently erroneous account of Gali's reaching the American coast in 57½ degrees, where he found a "pais hermoso, muy poblado de árboles y enteramente sin nieve." See also Greenhow, *The History of Oregon and California and the other Territories on the Northwest Coast of North America from their Discovery to the Present Day*, 66; and Bancroft, *North Mexican States*, I, 143.

¹⁷Governor Santiago de Vera to the King, April 26, 1587, B. and R., VI, 307.

¹⁸Relacion y derrotero del viage y descubrimiento que hizo el capitán Pedro de Unamuno, desde los puertos de Macan y Canton hasta el de Acapulco en Nueva España, 1587, *Archivo de Indias*, 1-1-3-25. Villamanrique to the King, November 29, 1588, *Archivo de Indias*, 58-3-10. See Richman, *California under Spain and Mexico*, 24-29, and notes. Richman translates the essential part of the *Relacion y derrotero*, a copy of which exists in the Bancroft Library of the University of California.

¹⁹King to Viceroy, January 17, 1593, *Archivo de Indias*, 58-3-11.

"because there are no Castillians suited for the work."²⁰ Dasmariñas, the governor of the Philippines, was ordered to do all possible to aid the expedition. On July 5, 1595, Cermenho cleared from Cavite in the *San Agustín*, a vessel of 130 tons, and with about seventy men on board.²¹ Latitude 42 degrees was reached on October 22, and on November 11 land was sighted a short distance above Cape Mendocino. Cermenho described the coast thereabouts as very rough, and very dangerous on account of the strong wind that blew landward and the many islets and reefs near the shore. Thence the *San Agustín* coasted southward, and finally put into Drake's Bay, which on December 6 Cermenho named "Bay of San Francisco." *Entradas* were made inland a few leagues in search for provisions, and though reported to be a pleasant country and fit for the cultivation of any crop, little food was found save acorns. On returning from one of these excursions Cermenho found to his dismay that the *San Agustín* had been thrown on the rocks. After this disaster the work of exploration had to be abandoned for the elemental need of self-preservation.²² From what could be salvaged of the ship a launch was constructed, and in this craft the survivors made their way after many hardships to the inhabited coasts of New Spain. They left the region of Point Reyes on December 8, and keeping about a league off shore they covered some ten leagues the first day. The next day they passed Half Moon Bay, but so far they had discovered "nothing of moment," though they must have steered close to the mouth of the greater San Francisco Bay.²³ On the tenth they saw an *ensenada muy grande*,

²⁰Velasco to the King, April 6, 1594, *Archivo de Indias*, 58-3-11.

²¹"Se despacharon tres naos, . . . y *San Agustín* del capn Pedro Sarmiento que so color del descubrimiento del Cavo Mendozino lo despacho de aqui el Gobernador." Francisco de Lasmissas to the King, Manila, June 16, 1596, *Archivo de Indias*, 67-6-29. Derrotero y relacion del descubrimiento que hizo el Capitan y Piloto mayor Sebastian Rodriguez Cermenho por orden de su magestad, hasta la Isla de Cedros, *Archivo de Indias*, 58-3-16.

²²Informacion sobre la calidad de la tierra que se vido en el puerto que se tomó, *Archivo de Indias*, 58-3-12. Bancroft says: "Cermenon's pilot, Bolaños, visited this port with Vizcaino in 1603, and his statement is all there is extant of the voyage." *North Mexican States*, I, 147. See note on p. 372 of Richman, *op. cit.* Richman was the first to use the *Derrotero y relacion* from the *Archivo de Indias*.

²³Me parece que se convence y colige claro que algunas vayas de las Principales y donde mas se podia esperar de hallar puerto, las atravesaron

which they named San Pedro, but which was clearly Monterey Bay. Their voyage thence southward was attended with increasing privations, and they were driven to desperate expedients for food. They subsisted at first on "bitter acorns," and ate a dog which they had on board,—“even to his hide.” They bartered for food with the Indians pieces of silk which they had saved from the *San Agustín*, and at one of the channel islands they took thirty fish, which they devoured “forthwith.” Later they fed for eight days on a huge fish, which they found on the shore, where it “had been killed.” At last they reached the Spanish settlements, Cermenho and most of the survivors going ashore at Navidad, while a few others,—Juan de Morgana, a pilot, and several seamen, entered Acapulco harbor on the last of January, 1596.²⁴ The geographical results of the expedition were inconsequential, for the loss of the *San Agustín* occurred at the very moment when her task had begun, and she had reached the neighborhood of San Francisco Bay.²⁵

The prosecution of the California project depended largely on the attitude of the reigning viceroy. Whereas Contreras and the Velascos enthusiastically promoted it,²⁶ Villamanrique was lukewarm or positively hostile, as Montesclaros was later. Gaspar de Zuñiga y Azevedo, Conde de Monterey, who succeeded the elder Velasco in the viceregal office in 1595, was even more energetic than his predecessor in the promotion of northern ex-

de punta á punta, y de noche, y en otras entraron poco; á todo debio dar ocasion forzosa la hambre y enfermedad con que dicen que venían que los harían apresurar el Viage.” Viceroy Monterey to the King, April 19, 1596, in *Anuario de la Direccion de Hidrografía*, XX, 410.

²⁴*Oficiales Reales* to Monterey, Acapulco, February 1, 1596, *Archivo de Indias*, 58-3-12.

²⁵Navarrete wrongly says of the *San Agustín*: “Salió á la mar, y regresó sin haber podido desempeñar su encargo.” *Op. cit.*, p. XLI.

²⁶“Cuidado me de la navegacion de las Islas Filipinas porque de vuelta de ellas siempre hay desgracias, . . . y todas suceden por ser la navegacion muy larga y no tener puerto en la tierra firme, donde hacer escala y proveerse de lo necesario y por remediar este daño deseo mucho descubrir los puertos de la tierra firme y demarcarlos y saber sus alturas.” Velasco to the King, May 31, 1591, in *Anuario de la Direccion de Hidrografía*, XX, 408. Advertimientos que el Virrey Don Luis de Velasco dio al Conde de Monterey, su sucesor en el gobierno de la Nueva España, *Biblioteca Nacional*, document J-13, f. 167, sect. 5. However, Velasco was hindered by lack of funds from prosecuting the search. Velasco to the King, October 8, 1593, *Archivo de Indias*, 58-3-11.

ploration and settlement. He declared to the King that, in spite of the loss of the *San Agustín*, the work of exploring the upper coast should be resumed at once.²⁷ He recommended, however, that future operations should be conducted from Acapulco by the direct route taken by Cabrillo and Drake, rather than by the roundabout voyage via the Philippines. It was due to his initiative that the expeditions of Sebastian Vizcaino were undertaken in 1596 and 1602. The first of these voyages did not reach the region of upper California, and was of no consequence for the galleon navigation. The expedition of 1602 was, however, better organized and carried out on a larger scale. In a long voyage that was accompanied with many hardships the coast was explored to above Mendocino.²⁸ Besides the port of San Diego, which Cabrillo had entered, Vizcaino also visited and carefully reconnoitered the fine bay which, after the far-seeing viceroy, he named Monterey.²⁹ He declared this harbor "all that could be desired as a way-station for the galleons." Not only was there a safe anchorage, but there was an ample supply of good timber thereabouts for the repairing of the ships. Vizcaino praised, too, the excellence of the climate and the evident fertility of the soil in the neighborhood, while he received reports from the Indians of rich deposits of gold in the mountains in the interior. It appeared altogether a most promising situation for such a settlement as the viceroy contemplated,³⁰ with possibilities, moreover, independent of its advantages as a galleon station. A little higher up the coast Vizcaino passed well out from the entrance of San Francisco Bay, and of course he failed to find that will-of-wisp of the North,—the strait of Anian. But an excellent series of charts of such of the coast as had been made known were drawn,³¹ and the acquaintance gained with the region formed

²⁷Summary of letter of Monterey to the King, *Archivo de Indias*, 58-3-12.

²⁸"A resultado entera luz en lo que se deseava y claridad de que ay dos otros puertos buenos." Monterey to Montesclaros, Acapulco, March 28, 1604, *Archivo de Indias*, 58-3-15. See Bolton, *op. cit.*, for the details of Vizcaino's voyage.

²⁹Vizcaino to the Council of the Indies, Monterey, December 28, 1602, in *Anuario de la Direccion de Hidrografia*, XX, 450.

³⁰Monterey to the King, March 26, 1603, *Archivo de Indias*, 58-3-14.

³¹See Richman, p. 22, for reproductions of two sections of this series. The Bancroft Library contains copies of the entire series.

a sufficient basis for the preliminary occupation of a port, whether San Diego or Monterey.

The viceroy determined to push the project to execution as early as possible, and accordingly planned to send out Vizcaino again as a commander of the galleons for 1604, with the further intention that the latter should examine the vicinity of the proposed settlement even more minutely on his return from the Philippines. He takes this occasion to laud the work of Vizcaino, whom he calls a skilled and trustworthy navigator. "He will give," said Monterey, "very good account of anything he undertakes at sea."³² However, even then Vizcaino's removal had already been decreed, and Monterey, although acquiescing in the royal resolution, inspired by some sinister influence or other, strongly advised the reinstatement of the veteran discoverer. Monterey himself had already been promoted to the other vice-royalty, and was at Acapulco, awaiting a ship to carry him south to Peru.

The prospects for the continuation of the California plans were not bright. Not only were those two men who were responsible for their ultimate execution, and who moreover enthusiastically desired their consummation, now officially powerless to further them, but the new viceroy, Mendoza y Luna, Marqués de Montesclaros, was avowedly hostile to the whole project, and no friend to the galleon trade. He formally deprived Vizcaino of his commission for the further exploration of the California coast, and substituted for him one Diego de Mendoza.³³ He considered Vizcaino sufficiently recompensed by his appointment as *alcalde mayor* of Tehuantepec. The grandee was personally aggrieved at the Basque sailor, whom he charged with writing a letter to some high personage to the effect that the easiest way for Montesclaros to fulfill his duty to him (Vizcaino) and to make himself rich was to appoint him commander of the Philippine ships for the following year.

However, in 1606 the king—Philip III,—on the recommendation of the Council of the Indies and of the chief Cosmographer,

³²Monterey to the King, Otumba, November 12, 1603, *Archivo de Indias*, 58-3-14. "Sabrá dar muy buena quenta de qualquier negocio de la mar, y a mi parecer la dará assimismo en cargas de justicia."

³³Montesclaros to the King, October 28, 1605, *Archivo de Indias*, 58-3-15.

ordered measures to be taken to establish a post on the California coast that could serve as a way-station for the Manila Galleons.³⁴ The viceroy was commanded to entrust the expedition to the indispensable Vizcaino, who was to proceed by way of the Philippines, where he should receive whatever aid he might need from the governor before returning eastward to the California coast.³⁵ Montesclaros was meanwhile to raise the necessary soldiers and colonists for the peopling of the new post, of which Vizcaino would lay the preliminary foundations. The royal decree reached Mexico April 11, 1607,—long delayed by shipwreck. It was impossible to put it into execution that year, as the Acapulco galleons had cleared a month before, and Vizcaino had gone to Spain in the previous *flota*.³⁶

It was on this occasion that Montesclaros made the counterproposal which postponed the occupation of California for more than a century and a half.³⁷ While acknowledging the importance of a way-station for the galleons,³⁸ he declared against the establishment of such a post on the California coast, although he conceded that Monterey might be used in lieu of anything better. The sailors, he contended, considered their voyage virtually ended when they sighted the coasts of California, and usually passed Monterey Bay with all sail set for Acapulco. The real danger lay near the beginning of the route,—in the seas off Japan and thereabouts. And here, the viceroy believed, were two islands providentially situated for the purpose in question,—Rica de Oro and Rica de Plata. The existence of these islands was generally believed in at this time, except by the experienced pilots of the galleon line. Imagination endowed them with the usual fabulous riches of lands that never existed, and they were destined to take their place in the geography of Spanish fantasy,

³⁴Real cédula, 1606, *Archivo de Indias*, 58-3-15.

³⁵The King to Governor Acuña, August 19, 1606, B. and R., XIV, 185-189.

³⁶Burney wrongly says that preparations for the occupation of California were stopped by the death of Vizcaino. *A Chronological History of Discoveries in the South Seas or Pacific Ocean* (1803), II, 258. This error is repeated in Coman, *The Economic Beginnings of the Far West*, I, 15.

³⁷Montesclaros to the King, May 24, 1607, *Archivo de Indias*, 58-3-16.

³⁸"Importantísimo es hallar puerto donde hagan escala los navíos de buelta de viage de Filipinas porque en tan larga navegacion la mayor parte del peligro es no tener donde reparar los daños que se reciben."

along with El Dorado and Quivira. "Everything," says the Jesuit Murillo Velarde, "was thrown into confusion by the fantastic and pernicious idea of the islands of Rica de Oro and Rica de Plata,—a sort of Barataria of Sancho Panza."³⁹ Montesclaros followed his recommendation of May 24 with a stronger representation in August, in which he invokes new and doubtful arguments against the occupation of California.⁴⁰ A post there, he charges, would only entice foreigners to that region, and so endanger the Spanish possession of that area, as well as imperil the galleon navigation. Monterey was too far from the ports of New Spain to be easily defended or reinforced, and such a port, if populated, would be the common property of friend and foe alike. Such a state of affairs would cause "perpetual disquietude" on the coasts of Peru and New Spain. Finally Montesclaros would substitute for the reality of California two islands whose very existence was problematical.

The *junta de guerra y Indias*, which was called to consider the viceroy's proposal, endorsed the recommended change, and decreed that, "before he does anything else," the new viceroy, the younger Velasco, should take measures for the discovery of Rica de Oro and Rica de Plata.⁴¹ The 20,000 pesos which were to pay the initial costs of the establishment at Monterey were diverted to financing the wild-geese-chase in the western Pacific. Only in case the isles of fancy should actually be demonstrated to be inferior to the California coast as a site for a way-station should Monterey be occupied. In September of the following year (1608) the *junta's* endorsement was incorporated into law in an order to the viceroy, to the effect that Vizcaino should be despatched around by the Philippines to search for Rica de Oro and Rica de Plata.⁴² The vacillating government, at the mercy of the most insistent petitioner of the moment, formally reversed its earlier decision, and California was left to lie fallow through the long decadence of Spain until the revival in the eighteenth

³⁹*Geographia Histórica*, libro IX, p. 183.

⁴⁰Montesclaros to the King, Acapulco, August 4, 1607, *Archivo de Indias*, 58-3-16.

⁴¹*Junta de guerra y Indias*, consulta, February 18, 1607, *Archivo de Indias*, 58-3-16. This *junta* consisted of the Conde de Lemos and six others.

⁴²The King to Velasco, September 27, 1608, B. and R., XIV, 273.

century. It was 1611 before Vizcaino went to the westward in quest of the two islands, and though they were of course never found, the alternative project of Monterey was not resumed.

In the interval between the suspension of the California design and its resumption 160 years later the interest shifted to Lower California, in which may be included the harbour of San Diego.⁴³ This region had been better known from early times than was the northwest coast. Attention was again drawn to it by Fray Antonio de la Ascension, who had accompanied Vizcaino on his northern expedition. In June, 1609, he recommended to the king the establishment of a settlement on the Bay of San Bernabé by Cape San Lucas, where the galleons could put in,—“leaving Monterey, which is to be populated.” The proposal was reviewed by the Council of the Indies, and then submitted to the examination of Viceroy Velasco.⁴⁴ However, this project bore no immediate fruit, though it probably furnished the initial impulse for the numerous expeditions which were despatched to the region of Lower California during the seventeenth century. Other motives were at work in these movements, too, than the need for a way-station for the galleons. There were lucrative pearl fishing grounds in those waters. The gathering of the *picilingues*, or foreign privateers and pirates, in that vicinity from Cavendish and Spilbergen to the later irruptions of the buccaneers exposed a very vulnerable outwork of New Spain to occupation and the Philippine commerce to attacks. In 1712 Woodes Rogers said of the Spanish policy towards Lower California: “They are jealous to keep what they have; and though they make no Use of their Land, might be afraid of Rivals.”⁴⁵ Also there was a geographical interest in the question as to whether California

⁴³See Venegas, *Noticia de la California*, II, *passim*; and Bancroft, *North Mexican States*, I, *passim*.

⁴⁴The King to Velasco, April 14, 1609, *Archivo de Indias*, 87-5-2. “Fray Antonio de la Ascension, descalço de la orden de Nuestra Señora del Carmen, me escrivio por carta de 18 de Junio del año pasado las conveniencias que seguirian de hazerse una poblacion en el Cavo de San Lucas . . . en el puerto ó baya de San Bernabé dexando al de Monterey que a entendido está mandado poblar pues por estar aquel puerto de San Bernabé en altura de veinte y tres grados y en sitio mejor sera mucho mas á proposito que el de Monterey para hazer escala las naos de la contratacion de las Filipinas.”

⁴⁵*A Cruising Voyage Round the World*, 286.

was island or peninsula, and in the associated problems of Anian and Quivira. And finally the northward missionary advance in New Spain was about to reach the field of Lower California,—especially the Jesuit phase of this movement. These objects, singly or conjointly, formed the impulse for the expeditions of those from Cardona to Otondo who undertook voyages to the region of the Gulf of California. But little came of all this for the galleons. It was long after 1700 before they could find a refuge on the southern coast.

With the Bourbons there came a new interest in California. In 1703, and again in 1708, Philip V ordered the establishment of a post on the coast, preferably near the Cape, but the colonial officials did not execute the royal decree.⁴⁶ Then, in 1719 the king proposed the founding of a settlement on San Diego Bay, on the advice of Julio de Olibán, an *oidor* of Guadalajara.⁴⁷ The port is described as “capacious, pleasant, and well-situated,” and, says the king, it should be settled “before the enemies of my crown occupy it.” For the immediate impetus of the proposal came from the fear of the intentions of the English, who had been so prevalent on that coast for the past several years. The settlement of either San Diego or Monterey would, declared the king, preserve the coast from the temporary depredations or more serious dangers from foreigners. It was suggested to Viceroy Valero that the new *presidio* could be garrisoned with *gente ociosa* from Mexico,—a possible inexhaustible source of colonists. But this project, too, became a dead letter when it reached New Spain,—and San Diego was not settled till 1769, after another half-century of delay.

Except for the urgings of the indefatigable Jesuit, Padre Kino, who was pushing the frontier of New Spain landwards up the east coast of the Gulf and towards Upper California,⁴⁸ the im-

⁴⁶“Haciendo en él alguna fortificacion ó Poblacion en que los Navegantes refrescasen el rancho y descansasen del trabajo de tan dilatado viaje.” The King to Viceroy Albuquerque, July 26, 1708, *Archivo de Indias*, 103-3-3.

⁴⁷The King to Viceroy Valero, February 18, 1719, *Archivo de Indias*, 103-3-4.

⁴⁸“Se podrá pasar asta la contra costa de la mar de la California y a su Cavo Mendosino al puerto de Monterey y podrá aver escala para el Nao de China ó Galeon de Filipinas, y juntamente algun comercio para

pulse for the occupation of Lower California during the next few years came from the Philippines, where the lack of such an establishment was keenest felt.⁴⁹ The galleons of 1732 carried orders to unite in the Bay of San Diego, and though they approached its entrance they were prevented by rough weather from going in. The next year Governor Valdés ordered the galleons to put in at Magdalena Bay, in case their commanders considered it advisable, and in 1734 he directed Joseph Bermúdez and Geronimo Montero, generals of the outgoing galleons, to reconnoiter the coast of Lower California for a site for a way-station. Montero put in at the Bay of San Bernabé, where the Jesuits had founded the Mission of San Joseph del Cabo four years before. He had but one day's water supply left and scarcely any provisions, while several were sick with the beri-beri, "whose only remedy is to go ashore."⁵⁰ There were taken into the galleon 100 head of sheep and hogs, 40 head of cattle, numerous game-birds, fruits, and vegetables, "and other gifts." Those on board were so revived that at Navidad, down the coast on the other side of the Gulf, people remarked: "It is not possible that these men are China sailors, because we are accustomed to see in those of so difficult a navigation the aspect of dead men, or of mortified penitents."⁵¹ The following year the *Encarnacion* stopped at the Cape Mission in nearly as great distress as the galleon of 1734. However, the Jesuit station had meanwhile been blotted out in an Indian rising, in which the missionaries in charge were murdered. The party sent ashore from the gal-

estas provincias de Sonora y Nueva Vizcaya y Nueva Galicia al Norte y Noroeste se podrá ir intrando hasta la gran Quivira y hasta el Gran Teguayo, y hasta el estrecho de Anian, y quisas tambien por alla se podrá abrir camino y mas breve nabegacion para España." Kino, *Favores celestiales*, 1699-1710, MS. copy in possession of Herbert E. Bolton.

⁴⁹*Traslado de peticion auto y informacion*, etc., Mexico, April 26, 1735, *Archivo de Indias*, 67-3-29. This is an interesting *expediente* on the need for a way-station at Cape San Lucas.

⁵⁰"A no haver allado puerto en California hubiera perecido toda su gente." Gaspar Rodero to Miguel de Villanueva, January 21, 1738, *Archivo de Indias*, 67-3-29.

⁵¹"Il Capitano del Vascello ne informa il Vice re, e questi ordino, che d'allora innanzi tutti i vascelli delle isole Filippine facessero scala nel porto di San Barnaba. Lo stesso venne ordinato del Governo di quelle isole." Clavigero, *Storia della California*, II, 83.

leon, ignorant of the fate of the Jesuits, were set upon by the revolted Indians and thirteen of the Spaniards killed.⁵²

The mission was soon re-established and the galleons called there with considerable regularity until the suppression of the Society in 1767. How far the liberality of the padres was dictated by charitable motives has been a matter of controversy which cannot be discussed here. The chaplain of Anson's *Centurion*, Richard Walter, raised the issue, and Murillo Velarde answered the aspersion that those of his order were moved by the profits of their trading with the galleon rather than by "Christian charity."⁵³ Bancroft insists that it was only due to the Jesuit influence that the galleon put in at the Cape, which he declares was not to the ship's advantage, but only that the Jesuits might drive "quite a lively trade."⁵⁴

In 1774 Josef de Gálvez charged that the Jesuits never did anything more than collect the government subsidy, while doing nothing for the royal interest in return.⁵⁵ "That famous cape," with its excellent, well-sheltered bay of San Bernabé, he declares, they had left in total abandon.

The successful and definitive effort for the occupation of Upper California which was made in 1769 was the result of a composite of forces, the first of which was the two-century-old need for a galleon station, and the newest of which was the fear of Russian aggressions on the northern coasts. Not only had the Russians crossed to the American mainland from Siberia, but an ominous advance southward from Alaska did not portend well for Spain's possessions in that direction.⁵⁶ And between 1764-69

⁵²Viceroy Vizarrón to the King, April 23, 1735, *Archivo de Indias*, 67-3-29.

⁵³*Geographia Histórica*, libro IX, p. 181. Venegas also denies the allegation. *Op. cit.*, III, 222. "Nuestra compañía, madre de enfermos y desvalidos." Kino, *op. cit.*

⁵⁴*North Mexican States*, I, 468.

⁵⁵Gálvez to Arriaga, March 8, 1774, *Archivo de Indias*, 104-6-16. "Deberán situarse y perseverar de continuo en el Cabo de San Lucas que es el sitio mas expuesto y la llave de la California de Sur."

⁵⁶Pedro Calderón Enríquez to Arriaga, February 24, 1769, *Archivo de Indias*, 107-1-17. In the previous November Calderón had proposed from Manila the abolition of the post on Guam and the diversion of the expenses of its maintenance,—about 32,000 pesos a year,—to the foundation of a post on the California coast. Twenty-one years before Calderón, an *oidor*

the expeditions of Byron, Wallis-Carteret, and Bougainville appeared in the Pacific, while in the latter year Cook rounded Cape Horn and crossed the South Sea to New Zealand and Australia.⁵⁷ The Spaniards saw in these more than astronomical or geographical curiosity, and dreaded above all the colonial ambitions of England, whose hold on the Philippines in 1762 had for a moment brought her to the edge of the Pacific.⁵⁸ In the face of all this it became increasingly clear to the Spaniards that actual possession alone would insure to her what she would keep. No papal bulls or sweeping claims would longer avail. Further, the final occupation of California would be rendered easier by the progress of the mission field toward the northwest through the work of such men as Kino. There was no longer the wide gap between the inhabited parts of New Spain and the Upper California coast, and thus entire reliance did not have to be placed upon the sea route as an avenue to the north. The policy of Spain was also now under different guidance than it had had under the fainéant Hapsburgs. It was directed by the modern and enlightened Charles III, and by a body of ministers and colonial officials as advanced as the monarch. Among these was the energetic and masterly Josef de Gálvez, who, as *visitador-general* of New Spain, not only saw the pressing necessity of consummating the long-delayed occupation of Upper California, but his was the driving will that drove it to execution.⁵⁹ A combined missionary and military *entrada* into California in 1769

at Manila, had urgently advised the occupation of Monterey. Calderón to the King, July 12, 1748, *Archivo de Indias*, 68-4-32.

⁵⁷Probably the best summary of these voyages is in Heawood, *A History of Geographical Discovery in the Seventeenth and Eighteenth Centuries* (1912).

⁵⁸Spaniards had long realized the strategic value of the Philippines as a bulwark for the defence of the American coasts against aggressions from the west. Grau y Monfalcón, *Justificación de la conservación, y comercio de las Islas Philipinas*, 1640, in Abreu, *Extracto historical*, f. 7. Simón de Anda warned the Spanish government in 1768 that the abandonment of the Philippines would result in the loss of Spain's American empire. Anda to Arriaga, July 7, 1768, *Archivo de Indias*, 108-3-17. Anda was Governor of the Philippines from 1762 to 1764, and from 1770 to 1776.

⁵⁹On Gálvez see the comprehensive work by Herbert I. Priestley, *José de Gálvez Visitor-General of New Spain (1765-1771)*, (Berkeley, 1916). On the whole subject of "the northwestward expansion of New Spain" consult Charles E. Chapman's *The Founding of Spanish California* (New York, 1916).

laid the foundations of presidios and missions. And not only were Spaniards in actual possession of Monterey at last, but the far superior harbor of San Francisco was discovered. By 1776 San Diego, Monterey and San Francisco, with a connecting line of missions, had been founded. Either of the ports in question would make a suitable port-of-call for the Manila galleons.

On June 22, 1773, the Council of the Indies decreed that the galleons should put in at Monterey, both for their own good and for the welfare of the colony, and on December 14 a royal order was issued to the same effect.⁶⁰ But though a fine of 4000 pesos was imposed on the commander of the galleon for failure to stop, the most of them preferred to continue on their way and risk the possibility of paying the fine rather than endure the delay.

The governors of the Philippines, save in the case of Basco y Vargas,⁶¹ were furthermore lenient in holding the galleon officers to account, while Berenguer de Marquina actually took it upon himself to suspend the royal order of October, 1777.⁶² However, in 1795 the king himself suspended his previous order. At that time the Marqués de Bexamar declared that it was not to the advantage of colony or vessel that the *nao* should call at a California port.⁶³ Against Monterey he alleged that the harbor was

⁶⁰*Archivo de Indias*, 108-3-9. This order reviews the attempts made in the early seventeenth century to bring about the occupation of Monterey. "Por Real Cédula de 19 de Agosto de 1606 se mandó con consideracion á lo mucho que importaba á la salvacion y seguridad de las Naos que vienen de esas islas en navegacion de 2000 leguas de golfo lanzado que tengan puerto en el camino donde repararse y proveerse de leña, agua y bastimentos."

⁶¹Basco y Vargas to Gálvez, Ronda, August 18, 1777, *Archivo de Indias*, 108-4-27.

⁶²Berenguer to the Conde de Tépa, January 17, 1791, *Archivo de Indias*, 108-4-27. "Todos aseguran ser peligroso y muy difícil el puerto de Monterey, y ademas de esto, no llevando como no llevan cosa alguna que desembarcar allí, ni haciendo otro gasto que el de un refresco de carnes y hortalizas, el pretendido fomento de aquel establecimiento no se podrá conseguir jamás de este modo." Berenguer to Antonio Valdéz, July 10, 1789, *Archivo de Indias*, 107-5-17.

⁶³Marques de Baxamar to the Governor of the Philippines and the Viceroy of New Spain, March 5, 1795, *Archivo de Indias*, 108-4-27. "El Virrey Conde de Revillagigedo en carta de 27 de Enero de 1790 . . . dice que los riesgos de esta escala son despreciables." Council of the Indies, *consulta*, January 27, 1794, *Archivo de Indias*, 108-4-27. One of the strongest advocates of the California station was the Hispanicized Englishman, Philip

too shallow for the galleon to tie up there. The ordinary route of the galleons was at this period far out from the Upper California coast, and they must accordingly leave their course to reach San Francisco and Monterey. Sometimes too they passed by the entrances of these bays under full sail for Acapulco a month to the southward. The ban placed by Viceroy Bucarely in 1773 on trading between the galleon and the colonists—whether laymen or priests—moreover removed one of the main incentives for stopping.⁶⁴ Felipe de Neve, governor of the new province, even prohibited the missionaries from going aboard the galleons, while Gonzáles, commandant at Monterey, was arrested for trading with the galleon.⁶⁵ In view of the potentialities of the region, such an illiberal prohibition greatly restricted the economic growth of the colony, not only by depriving it of an outlet for its productions, but of its best source of supplies,—the Philippines.⁶⁶

As it was, but few galleons put in at the California ports. The first was the *San José*, which called at Monterey in 1779.⁶⁷ In 1784 Basco y Vargas gave the *San Felipe* (Bruno de Heceta, General, and Antonio Maurelle, Pilot) specific orders to stop at San Francisco or Monterey.⁶⁸ The *San Felipe* reached Monterey October 10, and remained there till November 7 before proceeding for Acapulco, which she reached on December 11.⁶⁹ The *San José* stopped again the next year, storm-wracked and pest-ridden; but in 1786 the *San Andrés* passed by, although she lost

Thompson, "frigate's ensign and first-pilot of the royal navy." Thompson to the King, January 10, 1777, *Archivo de Indias*, 108-4-27.

⁶⁴Bancroft, *History of California*, I, 217; see also 440-43.

⁶⁵*Ibid.*, 384, 470.

⁶⁶The trade in the furs of marine animals offered a very promising field. Ciriaco González Caravajal, Expediente sobre establecer por la Compañía de Filipinas un comercio de pieles de nutrias castores y Lobos marinos de la costa de California, February 3, 1786, *Archivo de Indias*, 104-5-19. There is also in the *Archivo de Indias* an interesting document on this subject, without date or signature. *Estado, Audiencia de Filipinas, legajo*, no. 4, document no. 3.

⁶⁷Palou, *Noticias*, II, 363.

⁶⁸Pedro Basco to Gálvez, Manila, June 22, 1784, *Archivo de Indias*, 105-4-6.

⁶⁹*Idem to idem*, Acapulco, December 22, 1784, *Archivo de Indias*, 105-4-6.

thirty-six with the scurvy, and left forty-five more at San Blas to convalesce.⁷⁰ In 1795 two galleons put in at Monterey, while two years later one put in at Monterey and another at Santa Barbara.

⁷⁰Pedro Basco to Bernardo de Gálvez, December 29, 1786, *Archivo de Indias*, 108-4-25. Basco frankly says: "Luego que tomé la determinacion de hacer el viaje, la hice igualmente de no arriivar al puerto de Monterey en la costa de la Nueva California, como está mandado por S. M." *Audiencia* of Mexico to Gálvez, January 4, 1787, *Archivo de Indias*, 108-4-25.

NOTES ON EARLY TEXAS NEWSPAPERS, 1819-1836

EUGENE C. BARKER

Texas Republican, 1819.—The earliest newspaper published in Texas of which there is any record was the *Texas Republican*, established at Nacogdoches by General James Long, the last of the so-called "filibusters." All that is known of it has been told by Mr. E. W. Winkler.¹ The first number was issued August 14, 1819, and appears to have been edited by Horatio Bigelow,² a member of Long's "Supreme Council," though there is some warrant for according the distinction to Eli Harris, "a native of North Carolina."³ No copy of the paper is extant, and these facts are gleaned from contemporary papers of St. Louis and New Orleans. There is no clue to the number of issues that appeared, but publication can hardly have continued longer than two months. The extracts reprinted by contemporaries are principally military reports, but one records that an election of trustees for a "seminary of learning" had been called at Nacogdoches, and another that a grist and saw mill was building—promises of progress which were speedily blasted by the success of the royal forces and the flight of the inhabitants of East Texas across the Sabine.

Texas Courier, 1823.—Some four years later a venturesome American who signed himself Ashbridge established a press at San Antonio, and on April 9, 1823, announced his intention of publishing the *Texas Courier* "every Wednesday morning in Spanish and English." His prospectus, addressed in flamboyant style "To the Advocates of Light and Reason," deplored "the vicious policy of Spain, which for three hundred years had concealed from the world the rich and beneficent province of Texas, neglected education, stifled the arts, and discouraged industry."

¹"The First Newspaper in Texas," in THE QUARTERLY, VI, 162-165, VII, 242-243.

²St. Louis (Missouri) Enquirer, September 25, 1819, quoted by Winkler.

³Gazette de la Louisiane (New Orleans), September 4, 1819, and L'Ami des Lois et Journal du Commerce (New Orleans), September 4, 1819, both quoted by Winkler.

But, "evils of such magnitude could not be everlasting." "The epoch of reason and light [had broken] forever the degrading chains which oppressed the new hemisphere"; and Bexar, which formerly "was not thought deserving of a primary school, is now in possession of a *printing press*." The *Courier* wanted to "instruct the public in everything that may have a connection with its prosperity," and to that end would collect information from as many foreign papers as could be obtained. The subscription price in Bexar was six dollars and a half a year, payable half in advance; in other provinces and cities of the Empire,⁴ ten dollars.⁵ The total civilized population of Texas at that time, adults and children, probably did not exceed 3,000,⁶ and few of them were readers. How the editor expected to sustain himself does not appear. He enjoyed a measure of executive patronage, for during June and July, 1823, he rendered bills for printing three circulars, for the governor, twenty copies each, \$45.⁷ Whether he printed a single issue of the *Courier*, we do not know. Stephen F. Austin, who had been absent in Mexico for more than a year, wrote his brother from Monterey on May 20, 1823, "I am told you have a newspaper in Bexar, which I am rejoiced to hear. It will be of incalculable advantage to Bexar and the whole province." But on June 13 he wrote again that the government had bought the press and would remove it at once to Monterey, which it did.⁸

Unknown Paper in Austin's Colony, 1824.—That a paper was being published in Austin's colony as early as July, 1824, seems

⁴Though the Emperor Iturbide had abdicated on March 19, the news had probably not reached Bexar when this was published.

⁵The copy of the prospectus quoted is taken from the *Louisiana Advertiser* (New Orleans), of May 23, 1823. Judging from its style, the English copy was a translation of the Spanish. It is noted, but not reprinted, in the *Missouri Republican* (St. Louis), July 9, 1823.

⁶The census reports nearest this date show the following figures: La Bahia (Goliad), April 24, 1825, 522; Bexar, July 31, 1826, 1625; Austin's Colony, March 28, 1826, 1132 (most of these had come in since 1823); Nacogdoches, July, 1828, 737. These reports are in the Nacogdoches Archives in the Texas State Library.

⁷The bill is dated July 10, 1823. Copies of all the circulars are in the Bexar Archives, owned by the University of Texas. Mrs. M. A. Hatcher kindly brought them to the writer's attention.

⁸S. F. Austin to James B. Austin, May 20 and June 13, 1823. Austin Papers. University of Texas. Also Garcia to Garza, July 17, 1823. Bexar Archives.

apparent from a letter written by Austin to J. H. Bell.⁹ Austin says in this that the mistaken notions which had prevailed in Mexico concerning Texas had disappeared, "as you will see by reading next Saturday's paper"; but of the paper itself there is as yet no further clue. What was its title, who its editor, its place and duration of publication are unknown. Its span of life was no doubt very brief, or its fame circumscribed, for on June 25, 1825, one year later, R. C. Langdon of Natchez, Mississippi, wrote to Francis Keller, then on his way to Texas, asking him to get information concerning the practicability of establishing a paper at San Felipe.¹⁰ The cost of transporting the press, type, and materials, with paper for a year, would amount to \$1,000, and the paper would be of immense value to Austin's Colony, he said, in correcting false reports concerning it prevalent in the United States. That Keller reached Texas and made the inquiries that Langdon desired are indicated by the presence of Langdon's letter in the Austin Papers, but of the contents of his report to his friend we have no record.

The Mexican Advocate, 1829.—In the fall of 1829 two papers started almost simultaneously, at Nacogdoches and San Felipe—*The Mexican Advocate* and *The Texas Gazette*. The first was established at Nacogdoches by Milton Slocum, and was published in English and Spanish. This information comes to us through a notice in *The Arkansas Gazette* (Little Rock) of September 23, 1829. The issue of this paper for October 20 quotes from *The Mexican Advocate* a letter dated at Nacogdoches on September 4. From this, and other evidence not necessary to review here, Mr. Winkler is led to fix the date of the first number of the *Advocate* as "on or about September 4, 1829."¹¹ Concerning the editor, Mr. Winkler finds, from the census lists in the Nacogdoches Archives (Texas State Library), that Milton Slocum, "a native of Massachusetts, but late of Louisiana, and a printer by profession," arrived at Nacogdoches on June 27, 1829. He was then twenty-six years old. The annual reports continue to

⁹July 5, 1824. Austin Papers.

¹⁰Austin Papers.

¹¹Mr. Winkler has published two notes on *The Mexican Advocate*, one in THE QUARTERLY, VII, 243, and the other, a more extended one, in *Ibid.*, VIII, 272, note 2.

list him as a printer until June, 1832, when he has become a farmer, working for José Doste (Joseph Durst). Three letters in the Bexar Archives of the University of Texas give a little additional information. José Ignacio Ibarvo, Alcalde of Nacogdoches, wrote to Ramon Musquiz, the political chief, on June 2 that three young Americans arrived that day, bringing a printing press. August 4 he wrote that Slocum had been received as a citizen and had taken the oath required of printers not to disturb the peace with seditious papers. With this letter he forwarded to the political chief a "printed copy" (*impreso*), perhaps a prospectus of the *Advocate*. On August 17 Musquiz forwarded this information, with the paper, to the governor, saying that he had no copy of the law concerning printing and knew not what to say to Ibarvo. On November 25, 1829, Musquiz sent a communication to Ibarvo with instructions "to print it at once in the periodical, *Mexican Advocate*, which is established in that town."¹³ And on December 4, 1829, David G. Burnet wrote Austin from Cincinnati, Ohio, that he had recently seen a Nacogdoches paper containing a notice of Brown Austin's death.¹⁴ This was probably one of the earliest issues, for Brown Austin died in New Orleans on August 17.¹⁵ There is no record of Slocum after 1833.¹⁶ So far as is known, no copy of his paper exists. Does the fact that Slocum appears in the census as a printer until 1832 indicate that the paper continued publication until that time? Very probably not.

Texas Gazette, 1829-1832.—The first number of *The Texas Gazette* is dated at San Felipe de Austin, Friday, September 25, 1829.¹⁷ Plans had been under way for some time, and issue at

¹³In Nacogdoches Archives, Texas State Library.

¹⁴Austin Papers.

¹⁵H. D. Thompson to Austin. New Orleans, August 19, 1829. Austin Papers.

¹⁶Winkler, in *THE QUARTERLY*, VIII, 272, note 2.

¹⁷The late A. C. Gray in his "History of The Texas Press" (in Wooten, editor, *A Comprehensive History of Texas*, II, 368, ff.), gives Tuesday, September 29, for this date. He got his information from Colonel Guy M. Bryan, and Colonel Bryan's error was no doubt due to the fact that No. 3, which he had in his collection, was dated Tuesday, October 13. Though nominally a weekly, the *Gazette* was subject to many exigencies, and appeared somewhat irregularly. The same error appears in an article read before the Texas Press Association in May, 1886, by Judge A. B.

"a much earlier date" had been prevented by illness of the editor and his assistant.¹⁸ On September 9 Thomas F. McKinney, referring to a prospectus, had written Austin of his gratification at the "establishment of printing presses amongst us." Through them he hoped that "many existing evils may be eradicated and virtue planted and the good intentions of this Govt become universally realized by her citizens which under the present circumstances of imbecility and corruption must necessarily be imposed upon."¹⁹ The paper was "printed and published" weekly by Godwin Brown Cotten. The editor's name and the fame of Texas' most valuable agricultural product no doubt gave rise, in time, to the tradition, accepted in sober earnest by Bancroft, that the paper was called *The Cotton Plant*.²⁰ The prospectus, which appears in the first issue, gives no indication of an earlier intention to publish under a different title, and the last issue of which I have any trace, February 18, 1832, retained the title of *Texas Gazette*. Lacking only five numbers—11, 21, 39, 40, and 51,—Mrs. Mila T. Morris of Houston has volume one complete.²¹ The University of Texas has fourteen numbers, all duplicated in Mrs. Morris's run, and Mr. H. R. Wagner has in his valuable collection of Texana at Berkeley, California, volume two, numbers 3 and 6, January 10 and February 18, 1832. The last number of volume one (No. 52) is dated January 15, 1831; the first of volume two, if it appeared two weeks before number three, which is by no means certain, would have been dated December 26, 1831. At any rate, it must have issued some time in December. There was, therefore, an interval of about eleven months between the two volumes. This was apparently bridged, in part, at least, by the *Mexican Citizen*, which will be noted later.

The ideals and policies, hardships and difficulties of this pioneer example of Texas journalism are revealed by the editorial

Norton, and incorporated in F. B. Baillio, *A History of the Texas Press Association* (Dallas, 1916), 320.

¹⁸*Texas Gazette*, September 25, 1829.

¹⁹McKinney to Austin, September 9, 1829. Austin Papers.

²⁰Bancroft, *North Mexican States and Texas*, II, 548. The error also appears in Baillio, as cited in note 17; Gray, as cited in the same note, corrects it.

²¹The University of Texas has, in the Austin Papers, Nos. 3, 5-8, 10, 14-16, 27, 28, 33, 36, 47.

announcements and comments scattered through the volume. The prospectus announced that the *Gazette* would be "dedicated to political and miscellaneous intelligence," chronicling "events as they transpire, within our own country, or may come to us from foreign parts"; it would be "the advocate of the national and state constitutions, and of harmony and Union"; it would indulge in no personalities or abuse—a policy carried out with remarkable fidelity; it would try to obtain and publish good translations of laws and other important government documents, "which the want of a press has heretofore rendered it difficult to procure"; and from time to time would publish information useful to immigrants. News from the interior of Mexico—particularly important then because of the renewed Spanish invasion—the editor would try to obtain by regular correspondence with New Orleans. Subscriptions, "payable at any time after the first number has been issued," would be acceptable "in cash or Produce." Advertisements of not more than ten lines would be published for one dollar for the first and fifty cents for each subsequent insertion.

In the issue of August 21, 1830, Cotten announced that he had been troubled with applications to print statements concerning the character of private citizens, but "our press shall never be made the vehicle of accusations against the private character of any individual whatever." Public men, for public acts, he says, are responsible and may be investigated in the press, but not so with private cases. In the issue of September 6 he prints the bare news item that Seth Ingram, H. H. League, and J. G. Holtham had a "rencontre" on September 2, that Holtham was killed by "a pistol ball passing through his body," and that Ingram and League were in confinement and the case under investigation by the proper authority—"we forbear making any comments; but so soon as the trial is over we intend publishing the evidence etc. in pamphlet form." The preceding issue had carried the news of the escape of Hiram Friley, recently tried at Gonzales for the murder of Fielding Porter; the *Gazette* had said nothing about the trial of Friley "through what we conceive to be editorial propriety." But this has a modern tone: "It is to be hoped, that the civil authority will immediately adopt such

energetic measures, as will, in future, prohibit the practice of carrying arms, which has, we regret to say, been too common in this community, against the peace, quietness, prosperity, and even the reputation of this flourishing colony. Such a practice is unnecessary, except for the bloody and savage purpose of gratifying the private revenge of the most malignant heart."²²

Though nominally a weekly, the paper appeared very irregularly. The issue of November 7 announced that the next number would be delayed until the first Saturday in December. This was due to the request of many subscribers for a translation of the colonization laws in pamphlet form, and, to print that, it would be necessary to suspend the paper. This would entail no financial loss upon subscribers, it was explained, because they would receive the full fifty-two numbers for their year's subscriptions. The assurance was opportune, for the next issue did not appear until January 30, 1830. Number 34 (August 9) was delayed by repairs on the press. Number 46 (October 30) by *pied* type, and several other issues by causes unexplained. Number 50 (November 27) announced a temporary suspension for want of paper. Stock ordered in both New Orleans and New York, though expected all last month, had failed to arrive. The editor had made every effort to obtain paper, and had succeeded in finding in the colony enough for the last four numbers, but the end had been reached; "We are now entirely out." Number 51 is missing, so that we do not know exactly when the famine was relieved, but Number 52, the last of the volume, is dated January 15, 1831.

The editor's financial worries have a familiar sound. On March 27 the '\$6 in cash or produce, payable any time, after the first issue,' was changed to \$6 in advance, \$7 if paid in six months, \$8 if not paid until the end of the year. "Good, merchantable produce" would still be accepted, but "if not punctually paid, cash will be demanded." The issue of June 5 (Number 25) celebrated the end of the editor's first half-year. He thanked those who had assisted him by paying their subscriptions promptly, but bemoaned the fact that they were so few; "we hope they will now see the necessity of calling and

²²Issue of October 9, 1830.

paying, as printers, like all other *animals* both *eat* and *drink*, and have their wants, which must be satisfied some way or other." In his last issue he makes a final plea for payment, and announces that accounts will shortly be turned over to his attorney's for collection.

Various agencies were established for the circulation of the *Gazette*—McKinstry and Austin at Brazoria, Dr. Wm. D. Dunlap at Harrisburg, George Orr at Trinity, Colonel Green De Witt at Gonzales, Adolphus Sterne at Nacogdoches, James W. Breedlove at New Orleans, James D. McCoy at Alexandria, Louisiana, T. Devalcourt at Atakapas, and Grissum and Griffith at Natchez.²³ In the issue of May 15 Cotten offers a reward of \$10 for information leading to the conviction of persons who make a practice of taking the papers of subscribers.

The *Gazette* was a four-page paper with a type-page nine and a half by twelve inches, three columns to the page. The issues from January 30 to May 1 carried, under the title, the motto "Dios y Libertad." During this period it was edited by R. M. Williamson. Cotten then resumed the editorial office and changed the motto to, "Where Light Is, There is Liberty . . . Where Liberty Is, There Is My Country." In appearance and content the *Gazette* compares favorably with many of its contemporaries in the United States. In a typical issue, the first page is devoted to an article or essay, usually quoted from an exchange, but sometimes a special; the second to editorial comment, news, and official correspondence with Mexico or concerning Mexican affairs; the third to municipal ordinances of the ayuntamiento of San Felipe and to advertisements; the fourth to verse, usually clipped from exchanges but occasionally original, and advertisements. Some of the ponderous first-page articles in the earlier issues are: "Education," original by Philom, "Summary of President Jackson's Message," "The Man in the Bell" by Mr. Brougham, "Texas" from the *Hartford Times*, "Journey to the Volcano of Popocatepetl" translated from *El Sol*, "Political State of France" from *London Morning Chronicle* of November 30, 1829 (this in the issue of March 27, 1830), etc., etc. Many of the editorials and some articles were written by Austin. They are

²³Issue of March 27, 1830.

unsigned but one familiar with his style and method of thought has little difficulty in determining their authorship with reasonable certainty. Of news, in the modern sense, there is very little, but the advertisements are excellent sources for phases of economic history, and the official documents which occupy a considerable part of nearly every issue are invaluable to the historian. For example, several of the laws translated in the *Gazette*—they seem to have been translated by Austin—are omitted from the official collection of the *Laws of Coahuila and Texas*, and are available nowhere else; while there is a mass of material on the actual operation of the local government and its relation to the state administration.

Of Cotten little is known beyond what the pages of his paper reveal. He arrived in Austin's Colony August 10, 1829, from Louisiana, being then thirty-eight years old.²⁴ He sold his paper in January, 1831, and a traveler entering the Brazos River in March of that year records that he was then "proprietor of a log house at the mouth of the Brazos for the entertainment of passengers."²⁵ In December, as we have seen, he resumed the publication of the *Gazette*. In July, 1832, the *Gazette* press was transferred to D. W. Anthony,²⁶ and it is perhaps a reasonable inference that the *Gazette* continued publication, and by Cotten, to that time.²⁷ In January, 1833, he was working on Anthony's paper at Brazoria;²⁸ March 27, 1834, a card in the *Advocate of the People's Rights* announced his readiness to "practice law in the different courts of Austin's Colony." He felt himself as capable, he said, "as many others who are now exercising the profession." Thereafter he is lost to view.

The Mexican Citizen, 1831.—Cotten announced in Number 52 (January 15, 1831) that he had "disposed of the proprietorship of the *Texas Gazette* . . . to Robert M. Williamson Esqr."

²⁴See Cotten's application for land in Austin's Colony. Records of General Land Office, Austin, Texas.

²⁵*A Visit to Texas*, 5 (Anonymous. New York, second edition, 1836).

²⁶The *Texas Gazette and Brazoria Commercial Advertiser*, Extra, July 23, 1832 (Austin Papers) makes this announcement.

²⁷Bancroft, Gray, and Norton, as cited, agree in declaring that the *Gazette* continued publication until July, 1832.

²⁸Anthony to Austin, January 25, 1833. Austin Papers.

Williamson had previously edited the *Gazette*, as we have seen, from January to May, 1830, and was therefore not quite a novice.²⁹ There are four numbers of the *Mexican Citizen* in Mr. Wagner's collection—Numbers 5, 6, 10, and 15, March 17, 24, April 21, and May 26, 1831.³⁰ These show that Williamson had an associate, Aitken. The only contemporary reference to the paper which the writer has found is contained in a letter from S. M. Williams to Austin, dated March 22, 1831.³¹ Austin, who was at Saltillo attending the legislature, of which he was a member, had complained of not receiving his paper since leaving home. Williams sends him several numbers and says, "you will perceive . . . that a change has been made, and I assure you is is an important one, and must prove beneficial to the country. Williamson's partner, Mr. Aiken, is an excellent workman, and quite a gentleman, and they must succeed."

John Aitken is shown by the records in the General Land Office to have come from Pensacola. He made application, in February, 1831, for land in Austin's Colony, but the application was subsequently canceled, probably indicating that he had left the country. Williamson had been a resident of Texas since 1827. He later played a prominent part in the agitations leading to the Texas revolution, and after independence represented Washington county for many years in the congress of the Republic and the legislature of the state.³² Of their journalistic careers,

²⁹Williamson's management of the *Gazette* began with the issue of January 30, 1830 (No. 8), without explanation. The precise date of his relinquishing the editorial burdens cannot be fixed; he edited Number 20, Number 21 is missing, and with Number 22 (May 8) Cotten is again in charge.

³⁰For information about the papers in Mr. Wagner's collection I am indebted to the kindness of Miss Eleanor C. Buckley, of Austin, Texas, and Miss Helen S. Burns, of Atlantic City, New Jersey. Several errors in Judge Norton's article, in Baillie, as cited, note 17, should be corrected: Having called Cotten's paper "The Cotton Plant," he says, "In January, 1831, 'The Gazette of Texas' was published on this press, and after a few numbers its name was changed to 'Mexican Nation' by Father Michael Muldoon." It seems plain from the text that the titles are inaccurate. Whether or not Father Muldoon had a hand in naming Williamson's paper *The Mexican Citizen*, the writer has no means of knowing.

³¹Austin Papers.

³²Thrall, H. S., *A Pictorial History of Texas*, 631-635.
no other information is available.

Texas Gazette and Brazoria Commercial Advertiser and The Constitutional Advocate and Brazoria Advertiser, 1832.—In the Austin Papers of the University of Texas there is a half sheet, two pages, of an extra with this title. It contains an announcement from D. W. Anthony that, "The Press of the 'Gazette,' having been transferred to the subscriber, will hereafter be conducted under the style of *The Constitutional Advocate and Brazoria Advertiser*." He promised that he would immediately issue a prospectus, "with such remarks from the editor as will serve to give the public a correct idea of his political principles and economy, and the course he intends pursuing in the discharge of the interesting duty he has undertaken."³³ There are a number of puzzling questions concerning this paper which cannot be positively settled by the material at hand. Gray says,³⁴ "In 1830 the publication of the *Texas Gazette and Brazoria Commercial Advertiser* was begun in the town of Brazoria by D. W. Anthony." This is probably a reflection of a loose reading of Bancroft,³⁵ who says that the *Texas Gazette and Brazoria Advertiser* was published in Brazoria in 1830, and that in September, 1832, "it was merged in the *Constitutional Advocate and Texas Public Advertiser*, D. W. Anthony being editor and proprietor." Gray and Bancroft agree that there was a paper in Brazoria in 1830; they agree on the title, except that Bancroft omits the word "Commercial"; but they do not agree that Anthony edited it. Was there such a paper, and did Anthony edit it in 1830? Bancroft and Gray cite no authority for their statements that it existed, and in a thorough canvass of a large mass of contemporary material, the writer has found no reference to it, but that is far from conclusive. If the paper did exist, it seems strange that it should have taken *Texas Gazette* for the first half of its title, when Cotten was publishing another *Texas Gazette* at San Felipe, less than fifty miles away. As to Anthony, it seems possible to say with a fair degree of positiveness that, if the paper existed, he did not edit it. In the first place, his announcement of July 23, 1832, quoted above, does not read like that of a man

³³He goes on to say that the paper will be sent to former subscribers to the *Gazette* until notified to stop by those who do not want it.

³⁴As cited, page 369.

³⁵As cited, page 549.

previously known to Texas readers; in the second place, his first application for land in Texas was dated October 10, 1832,³⁶ and while he may have been in the Colony long before that, it is very unlikely. Usually one of the first things a man did after arriving in Texas was to make application for land. Let us now examine the questions from another angle. Anthony certainly acquired "the Press of the 'Gazette'" in July, 1832. Was it the press of the *Texas Gazette and Brazoria Commercial Advertiser* (Bancroft and Gray) or of Cotten's *Texas Gazette* at San Felipe? Gray says, "In July, 1832, the San Felipe paper was purchased by Anthony, and the two papers were consolidated under the name of *The Constitutional Advocate and Brazoria Advertiser*"; and Cotten, as we have already seen, was working for Anthony in January, 1833.³⁷ It seems fairly certain, therefore, that Anthony did take over Cotten's paper. Did he already own a paper at Brazoria, or did he now buy one and "consolidate" it with the *Gazette*? The natural answer is *no* to both alternatives. The day of combinations had not then arrived in Texas. If Anthony owned one press, whether recently imported from San Felipe or of long service in Brazoria, it seems highly improbable that he would have bought another. But the Extra in which he announced his acquisition of the paper and the change of name was printed at Brazoria. The solution tentatively offered by the writer is that some time between February 18, the date of the latest number of the *Gazette* in Mr. Wagner's collection, and July 23, 1832, Cotten himself moved his paper down to Brazoria and retained his old title but added to it "Brazoria Commercial Advertiser." If this should happen to be the truth, it would follow that, whatever may have been the case in 1830, there was certainly no other paper in Brazoria at the time of his removal there. Of the *Texas Gazette and Brazoria Commercial Advertiser*, we have only half of this single Extra; of Anthony's *Constitutional Advocate and Brazoria Advertiser* no copy is known. Austin complained in January, 1833, that the tone of the paper was anti-Mexican;³⁸ and the *Arkansas Advocate* (Little Rock)

³⁶Records of the General Land Office.

³⁷Anthony to Austin, January 25, 1833. Anstin Papers.

³⁸*Ibid.*

of May 29, 1833, quotes from it notices concerning the Convention of April, 1833, and the beginning of cholera in Texas. Anthony died of cholera during the summer.³⁹

The Advocate of the People's Rights, 1833.—Following Anthony's death there was much litigation for his press. John A. Wharton said, in February, 1834, that there had been five claimants. This statement appeared in *The Advocate of the People's Rights*, of February 22, Number 8 of Volume 1. The editorial announcement in this issue declares that it is edited and published by Oliver H. Allen, but his connection with the paper appears to have been a nominal one. Wharton says of himself that he began the publication of the paper when he thought the only press in Texas 'muzzled, devoted to the interest of a few and not accessible to all'; it is now "unbiased, unawed, open to you all"; his sacrifices are no longer necessary and he intends to retire. An Extra of March 27 declares that it "closes the career of the 'Advocate' until the return of Oliver H. Allen, the Editor, who is now absent in the United States of the North, and expected to return in the next vessel." Wharton says that he has sacrificed personal interest and convenience to make the paper useful to the people, but that they have withheld the support necessary to its existence. For that reason he viewed its discontinuance "with frigid indifference."⁴⁰ These two copies of the paper are in the Austin Papers; no others are known to exist. Advertisements in the regular issue of February 22 indicate that they have been running since November, 1833—the earliest one since November 23. The paper was published at Brazoria,⁴¹ whether from Anthony's press is not known.

The Emigrant, and the Texas Republican, 1834.—The Extra of *The Advocate of the People's Rights*, just described, carried the prospectus of *The Emigrant*, to be issued by Benjamin Frank-

³⁹Gray, as cited, says July, 1833. I cannot fix the date more accurately. Norton, in Baillio, as cited, 323, "*The Constitutional Advocate and Texas Public Advertiser* was published by Anthony at Brazoria from January 1 to July 16, 1833."

⁴⁰The *Advocate of the People's Rights*, February 22, 1834. Austin Papers.

⁴¹Gray says: "A paper called *The Advocate of the People's Rights* was also published in Brazoria in 1834, by Oliver H. Allen. Beyond this fact little is known of it."

lin Cage and Franklin C. Gray. They intended that the paper should be "chiefly devoted to agriculture, and to giving such information in regard to the country as will be interesting to those disposed to emigrate." Country subscribers to previous papers had rarely received their papers, they were informed, and to meet this difficulty they would have the papers delivered by express to all the principal points. The price of subscription would be \$5, and payment would not be required until the end of six months; if not paid then, the price would be \$7 at the end of the year. John A. Wharton, in calling attention to this announcement, said that Cage was a young man of firmness, "in whose hands the press is not likely to become muzzled." Gray, he said, was a printer, formerly foreman of the *New Orleans Commercial Bulletin*. It seems probable that *The Emigrant* never appeared, for on July 5, 1834,⁴² was issued the first number of *The Texas Republican*, at Brazoria, by Gray and Harris.⁴³ The University of Texas has twenty-nine scattering numbers of this paper, the last one dated March 9, 1836. With Number 17, December 13, 1834, Harris has retired,⁴⁴ and thereafter Gray continues the paper alone. Some of the vicissitudes of the press at Brazoria are hinted at in the editorial salutation in the first number of the paper: "Taking into consideration the liberal patronage that has always been extended to the press that issues this paper, by the citizens of Texas; and the uninterested patriot-

⁴²Norton, in Baillio, as cited, 324, says: "In January, 1835, a paper was published at Brazoria styled 'The Texas Republican' by F. C. Gray, who was from New York, on the old press of Cotten, and it was the only paper in Texas, and continued to be published until August, 1836." He adds, whether truly or not is unknown, that Gray later moved to California, became wealthy, and returned to New York and committed suicide. Bancroft evidently used Norton's source. He says (549): . . . "the *Texas Republican*, published at Brazoria by F. C. Gray, of New York, December 17, 1834"; and the details given by Norton follow. Gray says (as cited, 369): . . . "succeeded in August, 1834, by the *Texas Republican*. . . . Its publication was continued, with a short intermission during the Mexican invasion, until August, 1836, when it finally died." All the dates given for the initial issue are incorrect. The date in the text is taken from the paper itself.

⁴³Harris's initials are nowhere given.

⁴⁴This issue is in the Lamar Papers in the Texas State Library. The numbers in the University's collection are: 1, 13-15, 25, 28, 31, 35, 36, 39, 40, 42-44, 46, 47, 49, 51, 52, 53-59, 61, and issues for March 2 and 9, 1836. Some of the numbers are badly clipped.

ism displayed by them, in the ample support of it heretofore, the many baulks and disappointments to which they have been subjected, owing to the variable, uncertain and unfaithful manner in which it has been conducted, we almost despair of again raising its reputation. . . . We are aware of the many disadvantages under which we labour in an effort to resuscitate and bring into notice and make useful an establishment so effectually dead as this press must be, at present, in the public estimation." Being the only paper in Texas from July, 1834, to October 10, 1835, it is of the greatest value for the light which it throws on the inauguration of the Texas revolution. Proceedings and resolutions of a great many local mass meetings and committees of safety published in its columns are not elsewhere obtainable. The quotations just given in note 42 declare that the paper continued publication until August, 1836. However, the *Telegraph and Texas Register* of January 18, 1837, in a review of its own career, says that before March 24, 1836, "the presses at Brazoria and Nacogdoches had ceased their publications." Did the Brazoria press later resume? Possibly, but not likely.

Telegraph and Texas Register, 1835.—In *The Texas Republican* of March 14, 1835, Joseph Baker, Gail Borden, Jr., and John P. Borden announced their intention of beginning at San Felipe a paper "printed every week on a sheet larger than any hitherto published in Texas." It would be 'a tool to no party, but would fearlessly expose crime and critical error wherever met with.' The price was to be five dollars in advance, six dollars at the expiration of six months, and seven dollars at the end of the year. It was to be called the *Telegraph and Texas Planter*. Delays occurred, and the first number of the paper did not issue until October 10, when its title had been changed to *Telegraph and Texas Register*.⁴⁵ By that time the revolution had begun

⁴⁵Norton says (in Baillio, as cited, 324) that Gail and Thomas H. Borden and Joseph Baker began publishing in August, 1835, "The Texas Telegraph and Land Gazette" and that it was the forerunner of the *Telegraph*. The assumption in the text that the *Telegraph and Texas Planter* never issued is based on two reasons: (1) If begun in August, the name would hardly have been changed—without also a change of publishers—so soon as October. (2) If an office had already been established and issuing a paper before October, the difficulties of getting out the first number of the *Telegraph* could not have been so great as described by Gail Borden to Austin in his letter of October 10 quoted in the text.

and forces were gathering at Gonzales for the March on Bexar. Gail Borden saw clearly the importance of the press as an instrument of popular education and information, and a letter to Austin on October 10 shows some of the difficulties which he overcame in maintaining the paper. . . . "Mr. Baker says he ought to be in the camp, brother Tom says he also should be with you but indeed if they leave we never can get along with the paper, which is of more importance than their services can be in the camp. They say it will be said we do not turn out. But we work night and day—Mr. Toy has scarcely slept for two nights. You can represent the matter if you hear anything said. I shall endeavor to prevent their going, for my maxim is, Do the best for my country, praise or no praise." Again, on November 1, he wrote Austin, sending \$75 which he had collected on Austin's accounts: "I would send you some on my own account," he said, "but for the printing establishment which at this time is a heavy burden upon us. Have not receive 75 dollars yet on our subscription, and our expenses for workmen, making improvements etc has been 250 dollars per month. So long as the war lasts it will be a dead and heavy weight upon us—Thomas writes pressing for me to come to camp—If I should go, the business could not go on."⁴⁶

The *Telegraph* began, and continued through March, 1836, as an eight page paper. It is an invaluable repository of public documents during this critical period of the state's history. It published twenty-one issues at San Felipe, the last one March 24, then, with the advance of Santa Anna, crossed the Brazos, and, upon the request of President Burnet, set up at Harrisburg. Number 22, April 14, was on the press when Santa Anna's advance guard entered the town and destroyed machinery and type by throwing them into Buffalo Bayou.⁴⁷ In May Borden applied to President Burnet for assistance in equipping another paper. The government was indebted to him for public printing and Burnet gave him an order on the Texas Purchasing

⁴⁶Both Borden's letters are in the Austin Papers.

⁴⁷Gray says (as cited, 370) that only six copies of this issue had been printed. He says that the press was afterwards taken from the Bayou and restored, that the *Houston Morning Star* was printed on it, and that it was in the *Telegraph* office in 1877 when the *Telegraph* suspended.

Agent in New Orleans, presumably Thomas Toby and Brother. The agent, however, could not pay the draft and Borden mortgaged land for a letter of credit on Cincinnati, with which he bought a press and new materials. He established an office at Columbia, and issued Number 23 on August 2, 1836.⁴⁸ The paper was published at Columbia until April 11, 1837, and then moved to Houston, its final home. The first number issued at Houston is dated May 2. Baker had long since dropped out of the management, and in June, 1837, the Borden connection was broken, the paper being taken over by Jacob W. Cruger and Dr. Francis Moore, Jr. Lacking only six numbers of Volume 1,⁴⁹ the University of Texas has a practically complete file of the *Telegraph* to the end of December, 1845.

Texian and Emigrant's Guide, 1835.—Probably toward the middle of November, 1835, D. E. Lawhon established this paper at Nacogdoches. The Smythe Papers in the State Library contain Numbers 4 and 5, December 19 and 26, and the University has Number 6, January 2, 1836. We have already noted the *Telegraph's* statement that before March 24 the Nacogdoches paper had suspended.

The Texas Reporter.—The copy of *The Texas Republican* for March 2, 1836, in the University collection contains the prospectus of William W. Gant and Andrew J. Greer "for publishing in the town of Washington a miscellaneous newspaper to be entitled *The Texas Reporter*." It had apparently appeared first in the issue of January 14. Publication was then intended to begin early in March, the immediate object being to publish the reports of the convention which was to assemble there on March 1. The publishers believed that the union with Mexico was dissolved, and thought that Texas should establish an independent government. Their motto was to be "Measures first, men next." The rapid movement of military events during February and March, 1836, no doubt prevented them from carrying their plans into execution.

⁴⁸Gray erroneously says October 2.

⁴⁹The numbers missing are 10, 11, 18, 20, 22, 46. Number 19, however, is represented in the University collection by only two pages, 129-30 (1 and 2 of the issue). There are many duplicates in the collection.

Paper at Matagorda, 1835?—Gray says⁵⁰ that one Simon Musina published a paper at Matagorda from 1835 to 1838, but he had never seen a copy, and knew nothing about it. Borden's statement in the *Telegraph* of January 18, 1837, that the presses at Brazoria and Nacogdoches had ceased publication before March 24, 1836, and the further statement that he answered the president's call to Harrisburg because "we were the last and only medium of publication they could obtain," indicate that there was no such paper. This, however, is not entirely conclusive.

Perhaps an apology is due for the publication of these notes. They were taken incidentally during the course of an exhaustive study, for a larger subject, of the contemporary material on Texas from 1819 to 1836. It seems improbable that another will soon tread that path again; and, since there is so much of error in what has been written about the Texas press of that period, it seemed desirable to publish them. It may well happen, too, that readers of the article may know of additional copies of the papers here listed, and of others, not listed, in which case the writer would greatly appreciate having them brought to his attention. For, whatever may be thought of the notes, the papers themselves are invaluable.

⁵⁰As cited, 370.

THE ARCHIVO GENERAL DE INDIAS

CHARLES E. CHAPMAN

I. The Wealth of the Great Archive at Seville

In the words of a Spanish writer, "The history of [Spanish] America, so far as the documents are concerned, is preserved almost completely in Spain. The successive amputations of her American dominions which the mother country suffered have gone on increasing the wealth in documents, for, as her rule has come to an end, she has transported a great part of their archives. . . . The most essential parts of these documents are contained in the Archivo [General] de Indias of Seville."¹

While some may take exception to the above statement, on the ground that it is too sweeping, it is beyond question that the great Sevillian archive is practically inexhaustible in its wealth of materials on almost every conceivable subject in Spanish colonial administration and is the most valuable single archive on that field in existence. This is so in increasing measure, for laws have been passed and are gradually being executed for the transfer of materials relating to Spain's former colonies from their present repositories in Simancas and Madrid to the archive at Seville. It is true that vast quantities of rich materials have been found in the archives of Spanish American countries,² and that they often contain local details of which no account was sent to Spain, but a single great repository, dealing with all of the former colonies, has a decided advantage as against the numerous, scattered archives of the Americas. Many colonial archives have indeed but scant remains of the wealth they once possessed, as a result of the removal of papers to Spain,³ or due

¹Torres Lanzas in *El Archivo de Indias*, p. XV. For a description of this work, see *infra* in section IV.

²See especially Bolton, Herbert E., *Guide to materials for the history of the United States in the principal archives of Mexico*. Washington, 1913; also Pérez, Luis M., *Guide to the materials for American history in Cuban archives*. Washington, 1907. See also Chapman, Charles E., *South America as a field for an historical survey*, in *A Californian in South America* (ed. by Dr. Herbert I. Priestley. Berkeley, 1917), pp. 41-50.

³For example, in the case of Cuba.

to the yet greater disintegrating forces of foreign war, revolution, and lack of care.⁴ Even in the case of those American countries whose archives retain an unusual degree of completeness,⁵ the small local materials will usually be present in Spain, as well as in the land of origination, owing to the incessant and systematic accumulation of minute detail, for action by the authorities in Spain.⁶

The value of the materials in Seville, as compared with those of other archives, may be illustrated by tracing the documentation of a given case. It may be supposed that Lacy, the Spanish minister to Russia, reports to Grimaldi, the Spanish minister of state, that the Russians are preparing to make conquests in the Californias. Grimaldi, in turn, informs Arriaga, the *ministro general de Indias*, and the latter asks the viceroy, Bucarely, to strengthen the defences of Alta California. Bucarely orders Governor Rivera of Alta California to report on the state of the presidios in his province. In due time, Rivera writes to the various presidial commanders, and receives their replies, after which he communicates the result to Bucarely. Bucarely writes to Arriaga, who asks Gálvez, as one familiar with Alta California affairs, his opinion about the Rivera report. Gálvez replies, and Arriaga then sends the whole file to the Council of the Indies, with a request for its action. Finally, the Council informs Arriaga of what it has done. In such a case, a great many other documents would in fact be included in the *expediente*, but the above are sufficient for purposes of illustration. The following would be the usual documentary result in the archives of Salinas (the county-seat of Monterey County, California), Mexico City, and Seville.⁷

⁴For example, in the case of Peru.

⁵For example, several of the archives of Mexico.

⁶See Chapman, *The founding of Spanish California*, p. 170, n. 63, especially the second column of page 170.

⁷The abbreviations used are the following: "Or." for an original, signed with the name and rubric of the writer; "Dft." for the draft or file copy of the writer; "Cer." for a certified copy; "C." for uncertified copies. These abbreviations are also used in combination.

	Salinas	Mexico	Seville
1. Lacy to Grimaldi	....	C.	C. of Or.
2. Grimaldi to Arriaga	....	C. of Or.	Or.
3. Arriaga to Bucarely	....	Or.	Dft.
4. Bucarely to Rivera	Or.	Dft.	Cer..
5. Rivera to the presidial commanders	Dft.	Cer.	Cer. of Cer.
6. The presidial commanders to Rivera	Or.	Cer.	Cer. of Cer.
7. Rivera to Bucarely	Dft.	Or.	Cer.
8. Bucarely to Arriaga	....	Dft.	Or.
9. Arriaga to Gálvez	....	.....	Dft.
10. Gálvez to Arriaga	....	.....	Or.
11. Arriaga to the Council of the Indies	....	.....	Dft.
12. The Council of the Indies to Arriaga	....	.....	Or.

In some of the above cases the document might be an uncertified copy of an original or certified copy, thus operating more particularly against the technical value of the file at Seville, but such instances are rare.⁸ In matters of purely local character or of minor importance, documents like those from 4 to 7 may never have been sent to Spain, although they may appear at Salinas and Mexico, while there is undoubtedly a great body of material like items 5 and 6 that would exist only in a provincial archive. Attention should also be called to the fact that, for such documents as exist in all three archives, the best technical file is that of the province, the next best that of the viceroyalty, and next after that the file in Spain.⁹ On the other hand, the

⁸Many documents which seem to be copies are really originals, such, for example, as petitions, which it was the practice not to sign, and letters of some of the religious, who occasionally omitted the rubric. In the case of ordinary copies it is not always possible to be certain that they were made from originals or certified copies, although they are almost invariably made from one or the other.

⁹Much material relating to the Spanish period of regions now within the United States is still to be found in various local archives, as may be seen from the following account of the local archives of Texas, New Mexico, and California.

One of the most valuable archives of the northern Spanish frontier is that which accumulated in the old Spanish province of Texas. In the

documents at Seville have a number of advantages. Documents like those of item 1 are often at Seville in the original, as well as in copies therefrom, and eventually that should be the general rule, when all Spanish colonial materials shall be stored at Seville, as contemplated by law. Furthermore, documents like those of items 9 to 12, always of the highest technical rank, are to be found only in Spain. They may be described generally as intra-departmental (within the Indies department itself), inter-

early years of its history the district was a part of Coahuila. For half a century, from 1722 to 1772, the capital was at Los Adaes (now Robeline) in the present state of Louisiana. Thenceforward, to the end of the Spanish period, the seat of government was at San Antonio de Bexar. In the course of time, the provincial records became somewhat scattered. The bulk of them, however, found their way into the County Court House of Bexar County (at San Antonio), where they remained until, some eighteen years ago, they were transferred to the University of Texas, at which place they have formed the basis for much of the notable historical work done at that university. Fragments of the archives are at the State Historical Library, Austin, where they are known as the Nacogdoches Archives. Still other fragments were found in the Lamar Papers, which were purchased by the state of Texas, a few years ago. These, too, are now at the State Library. The provincial records at the University of Texas are well known as the Bexar Archives. They comprise about 300,000 pages of original documents, consisting mainly of the correspondence of military and civil officials.

When the United States government acquired New Mexico in 1848, fairly complete records were found in the provincial archives at Santa Fe for the period since 1692. Few documents were of prior date to the latter year, due to the fact that in the revolt of 1680 all the records, covering the period from 1598, were burned, and it was not until 1692 that the Spaniards were able to return to New Mexico. In 1903, the Secretary of the Interior, acting for the United States government, took charge of the Spanish archives of the territory of New Mexico. During the preceding fifty-five years of American occupation, however, the archives had not been properly cared for, and in 1870 an American governor was even guilty of the vandal act of selling documents to the merchants of Santa Fe for wrapping paper. After the Secretary of the Interior assumed control in 1903, the papers still remaining at Santa Fe were, with the exception of a few that were retained in the Surveyor General's office in that city, removed to the Manuscripts Division of the Library of Congress. There they have been arranged in chronological order, the sheets have been cleaned, and a catalogue in English has been made of them. For more detailed accounts, see Vaughan, J. H., *A preliminary report on the archives of New Mexico*, in American Historical Association, *Annual report for the year 1908*, 465-494; Twitchell, *Spanish archives of New Mexico* (Cedar Rapids, Ia. 1914. 2 v.), Prefatory Note.

Unfortunately, the Spanish provincial archives of Alta California have not been kept intact, and probably the greater part of them has been destroyed. After the conquest of California by the United States, the archives were placed in charge of the United States Surveyor General for California. Some of the papers were later taken elsewhere, but the majority were still in possession of that official at the time of the San Fran-

departmental (among the various governmental agencies of Spain in Europe), and private (whether as the result of official requests for an opinion or arising from petitions of individuals) correspondence in Europe (usually in Spain) of which official cognizance was taken by the department of the Indies. Finally, the whole *expediente* in Spain is the file upon which the highest official action was based.

Whatever argument there may be as to the comparative value of the documents in Seville and elsewhere as to kind, there can be none as respects their number, in which particular the Archivo General de Indias is far superior to any other in the same field. In 1913 there were nearly 40,000 *legajos* in the archive.¹⁰ When the transfers from other Spanish archives have been completed, there should be a total of 80,000 *legajos*.¹¹ While a number of *legajos* contain only several hundred pages of manuscript material, and still others have as many as six thousand, the

cisco fire of 1906. In over three hundred volumes of Spanish records, scarcely more than a score escaped the conflagration. Fortunately, however, sixteen volumes of original documents dating from 1781 to 1850, had been transferred, in 1858, to the Monterey County archive, in the recorder's office at Salinas, and there they still remain. Five of the volumes relate to criminal matters; the others are miscellaneous, containing official correspondence, private letters, public addresses, and petty court papers. They comprise, without doubt, the most valuable source material for the Spanish and Mexican periods of California history to be found in any of the archives of California. Other records of a more local nature exist in the archives of cities which were the former *pueblos* of Spanish California, as at Los Angeles, San Jose, and Santa Cruz (Branciforte), and still others at many of the missions, especially at Santa Barbara, where an attempt has been made to collect the files of all the missions.

For the material of the preceding paragraphs, the writer is indebted to Professor Herbert E. Bolton, Dr. Charles W. Hackett, and Mr. Owen C. Coy, secretary of the California Historical Survey Commission.

¹⁰Hill, Roscoe R., *Descriptive catalogue of the documents relating to the history of the United States in the Papeles Procedentes de Cuba deposited in the Archivo General de Indias at Seville* (Washington, 1916), p. VII, says "about 35,000," and in a list on page IX gives a more nearly exact estimate of 35,731 *legajos*. Shepherd, William R., *Guide to the materials for the history of the United States in Spanish archives* (Washington, 1907), p. 55, says "some 40,000 *legajos*," and those are the figures given by Señor Torres Lanzas, head of the archive, to the writer. The two estimates may be reconciled by the fact that there are some groups of papers in which the *legajos* are so large as to be unwieldy, and it has long been planned to reduce them to a more convenient size. In 1913, after Mr. Hill's departure from Seville, this work began on the 1194 bundles of the *Escribanía de Camara del Consejo de Indias* papers, which are expected to yield about 3,000 *legajos* of the usual size.

¹¹This is the estimate of Señor Torres Lanzas.

usual size of a *legajo* is about two thousand pages. The number of documents will vary greatly, from a single huge *testimonio* or several bound volumes to as many as two thousand documents. Counting *testimonios* as one item, it is probable that there may be an average of four hundred documents to a *legajo*.¹² If the separate documents of *testimonios* are included, the number may easily reach double that figure. On this basis, the ultimate wealth of the Archivo General de Indias is from 32,000,000 to 64,000,000 documents, aggregating 160,000,000 pages of manuscript. The vastness of these numbers and the possibilities that await the American investigator can best be appreciated, when one considers that an estimate made in 1907 by a competent scholar, with the financial backing of the Carnegie Institution of Washington, revealed only 5332 copies in the United States of documents from the archives of Spain,¹³ although many from the Archivo General de Indias have since been added to American libraries.¹⁴

II. *The Archive Building*

The history of the Casa Lonja, as the archive building is called, has been told by most of the writers who have dealt with the material it contains.¹⁵ In brief, it may be stated that a law was passed, on October 30, 1572, calling for the erection of the building for the use of the Casa de Contratación. The work was in charge of the elder Herrera (Juan de Herrera), most famous

¹²Hill, *Descriptive catalogue*, p. XXIX, estimates that there are an average of five hundred documents in the *legajos* forming the basis of his work. In the *legajos* investigated by the present writer, most of them in the Guadalajara and Mexico sections of the Audiencias group and the Estado papers, it is doubtful if the average is over three hundred, owing to the great number of *testimonios*, and it may be less.

¹³Robertson, James A., *List of documents in Spanish archives relating to the history of the United States which have been printed or of which transcripts are preserved in American libraries*. Of the 5332 items, 1075 concern printed documents, but the transcript entries often include more than a single document.

¹⁴Through the efforts of Native Sons of the Golden West Fellows and of Dr. William E. Dunn of the University of Texas, thousands of documents have been procured for the Bancroft Library of the University of California, the Library of the University of Texas, the Newberry Library of Chicago, and the Library of Congress. Thus, students in the Spanish-American field have an opportunity to carry on extensive work in any one of four widely separated cities of this country.

¹⁵See especially the already cited works of Shepherd and Torres Lanzas.

Spanish architect of all time, the builder of the Escorial and other notable edifices in Spain, and the building is one of the most pleasing examples of his style. On August 14, 1598, the work was completed. For over a hundred years, the Lonja was the seat of the busy Casa de Contratación, but in the eighteenth century, with the removal of that institution to Cádiz, it became untenanted. In 1778, the idea of an archive of the Indies was suggested to the king by Juan Bautista Muñoz, celebrated historian and even more celebrated archivist. The project was received with favor, and the Casa Lonja was proposed by José de Gálvez, at that time *ministro general de Indias*, as the archive building. In 1785, with the arrival of a number of *legajos* from Simancas, the Lonja was fairly embarked on its new career. From that time forth, other consignments of papers were made to the archive,¹⁶ until at length the upper floor of the building, the only space thus far allotted, could not conveniently house more of the *legajos*. Laws were passed for the delivery of the lower floor for archive purposes as well, and in 1913 the laws were executed. With this addition, it is believed that there will be enough space, though with little to spare, for the 80,000 *legajos* which will one day be the completed store of the Archivo General de Indias.

There are practically no formalities attending admission to the archive for purpose of investigation,¹⁷ and, once there, the investigator is allowed wide latitude for the pursuit of his studies. While waiting for a *legajo*, he has an opportunity to consult the valuable library of over a thousand volumes, which the Archivo General de Indias has accumulated concerning Spanish America. While the archive has no funds for the purchase of books, the library is constantly growing through gifts; incidentally, it is a rule of courtesy that students who use the materials of the archive shall donate copies of their printed works based thereon. The investigator who is unable to go to Seville for his documents is free to arrange for copying through the N. S. G. W.

¹⁶Hill, *Descriptive catalogue*, p. IX, gives a table showing the different larger groups of papers, their inclusive dates, the number of *legajos* in each, the origin of the papers, and the dates when they came to the Casa Lonja.

¹⁷On this point, see Shepherd, *Guide*, p. 59, and Hill, *Descriptive catalogue*, pp. IX-XI.

Fellows, when they are present, or he may apply directly to the chiefs of the archive.

III. *The Arrangement of the Papers*

In the formation of the *legajos*, of whatever set, the year 1760 is a kind of twilight zone between the disorder of the older papers and the excellent arrangement of those of later date; the disorder continues through that year in some *legajos*, while in others that is the date where good order begins. Before 1760, *expediente* groupings are rarely maintained, and are often completely lost, through the disappearance of documents, or through their having been filed in separate *legajos*. The excellent arrangement of the post-1760 *legajos* is admirable. The general rule is for a sub-grouping by individual years, within which the particular year's *expedientes* appear. The *expedientes* are conveniently arranged, so that the relationships of the documents are manifest from the very make-up of the file. Occasionally, in *legajos* that have been used by investigators, but especially in those from which copies have been made, an ante-1760 chaos has made its appearance. Whether the fault be that of an investigator or that of an archive clerk, it cannot be too greatly regretted, and it is to be hoped that the evil practice may be checked or done away with.

The papers are divided into twelve (or, if those styled Indiferente General are considered separately from the Audiencia group, thirteen) larger sets, ranging in numbers from the 204 *legajos* of the Estado group, to the 18,860 of the Simancas papers (including both the Audiencia and Indiferente General sections, of which the former contains over 15,000). Some attempts at cataloguing the materials have been made, but while the *inventarios* and *índices* of certain sets, for example the Patronato Real¹⁸ and Estado groups, have been commendably well done,

¹⁸The most famous of all the sets of materials at the archive is that of the Patronato Real. The title of these papers would lead one to expect them to deal with the royal patronage with regard to the church, but the name has no relation to the subject-matter; they are so called, because they are stored in a room which was formerly the office of that branch of royal administration. They represent the selections of Juan Bautista Muñoz of the materials which he considered the most valuable of the archive. As such, they have been used by investigators more than many

those of others present very meagre guides to the materials referred to. This is particularly true of what is perhaps the richest set of all for general purposes, as well as the greatest in number of *legajos*, the above mentioned Simancas papers, to which three small *inventarios* are devoted. In the case of this set, a one or two line description, with inclusive dates, is given for the various groups of *legajos*, a single item embracing from one to as many as twenty-five *legajos*,—obviously not a very detailed clue to the contents.

The names of the larger sections will occasionally convey some idea as to the nature of the materials, but the basis of appellation is, not subject-matter, but the office whence the papers came to the archive. Thus, the Simancas papers came from the archive at Simancas. The principal sub-group is called the Audiencia papers, not because it deals with the activities of *audiencias*, but because the various *audiencia* jurisdictions were taken as convenient geographical divisions. Similarly, the other sub-group of the Simancas papers is called Indiferente General, because the documents were not easily referable to any single *audiencia* jurisdiction.¹⁹ The *legajos* are located by *estante* (stack), *cajón* (compartment, or shelf), and *legajo* (bundle) numbers, and the

other equally valuable sets, and they constitute the principal source for the much-cited *Colección de documentos inéditos, relativos al descubrimiento, conquista y organización de las antiguas posesiones españolas de América y Oceanía* (Madrid, 1864-1884. 42 v.). Cf. Chapman, *The Founding of Spanish California*, p. 438. The documents of the Patronato Real are particularly rich in materials for the era of the *conquistadores*; they contain little or nothing for the eighteenth century. There is still much of value in this set that has not been used, e. g., the six hundred page manuscript account of the Coronado expedition by Baltasar de Obregón, which was virtually unknown until found by the writer and copied for the Newberry Library of Chicago, but, as a general rule, other sets will now yield far more to the investigator in search of new materials. The *inventarios* and *índices* of the Patronato Real are the type which has been followed with more or less success in the cataloguing of other sets. The *inventarios* of this set (of which there are two) list the materials, sometimes by *expedientes*, and at others document by document. The *índices* (of which also there are two) provide an alphabetical index, usually by names of persons, but in some cases by names of places and institutions as well, to the *inventarios*. Where possible, the alphabetical index is applied within geographical units.

¹⁹This section has also served as a category for materials which came to the archive, not necessarily from Simancas, after the *inventarios* of other groups had been made up. It is, therefore, a growing set. Shepherd, *Guide*, p. 67.

three together (e. g., 104-3-2) are habitually termed the *legajo* number. The title of an individual *legajo* and its inclusive dates will usually give a general indication of subject-matter and the range, in time, of the documents, but neither is a safe clue in all cases.²⁰

IV. Works Dealing With the Archive

A bibliography of works treating of the Archivo General de Indias is provided in Hill, *Descriptive catalogue*,²¹ p. VII. The following items may be added to Mr. Hill's list:

El Archivo de Indias y la Sociedad de Publicaciones Históricas. [Madrid, 1912.] This is an illustrated thirty-one page pamphlet in two parts. The first part, in fifteen pages, is the work of Dr. Pío Zabala y Lera, referring to the publications, past and prospective of the *Sociedad de Publicaciones Históricas*. The second part, written anonymously by Señor Don Pedro Torres Lanzas, chief of the archive, concerns the Archivo General de Indias. It ranks with Shepherd's *Guide*²² as the most useful description yet published of the general contents of the archive.

Larrabure y Unanue, Eugenio, *Les Archives des Indes et la Bibliothèque Colombine de Séville*. [Paris, 1914.] This is a profusely illustrated eighty-eight page pamphlet, of which fifty pages are devoted to the Archivo General de Indias. Practically the entire space deals with the exposition of documents at that archive in 1913, in celebration of the four hundredth anniversary of Balboa's discovery of the Pacific Ocean.

There is an article in *Archives des Missions Scientifiques et Littéraires*, second series, v. II, p. 367, not available to the present writer, cited in Shepherd, *Guide*, pp. 59, 96.

More popular in character, but often containing material of value, are the various reports of the Native Sons of the Golden West Fellows, published, from time to time, in the *Grizzly Bear Magazine* of Los Angeles, and articles of like character by Dr.

²⁰It is a temptation to write a general account of the various larger groups of papers, for which the writer has notes available, but it is doubtful if much that is useful could be added to the concise statements appearing in Shepherd's *Guide*.

²¹See *supra*, n. 10.

²²See *supra*, n. 10.

William E. Dunn of the University of Texas in newspapers and magazines of Texas, e. g., *Hunting old documents in Spain*, in *The Alcalde* (Austin, Texas), III, 345-354, February, 1915. The most complete and most available description of the archive, for American scholars, especially as regards the *inventarios* and *índices* of the different sets of papers, is Shepherd's *Guide*, supplemented as regards arrangement and archive rules since the publication of Shepherd's work by Hill's *Descriptive catalogue*. Both of these works, as well as those of Bolton, Pérez, and Robertson, cited in notes 2 and 13, are among the publications of the Department of Historical Research of the Carnegie Institution of Washington.

CONTEMPORARY POETRY OF THE TEXAN REVOLUTION

ALEX DIENST

The poems presented in this article have been carefully sought for by me in the past twenty years. With the exception of three of them, I have no knowledge of any of them having been reprinted after their original appearance in print. While I have found about one hundred poems printed during the days of the Republic of Texas, in this section I have only included those that appeared in print during 1836, the "heroic period of Texas history," and the year of the declaration of Texan independence. It is barely possible that two or three of these poems have never been in print. I possess the original manuscripts, and from marginal notes thereon, I should judge that they had appeared in some contemporaneous publication in 1836, but, if so, I have not located them.

While not claiming to be a judge of poetical literature, I am quite sure that any patriot, especially in these days of universal patriotism, will agree with me that these poems are not only meritorious, but are far above the average in thought, rhythm, vivacity, energy of expression, and poetical expression.

It is a trite saying that the poet has a prophetic insight. A careful perusal of the verses here presented will show that not a prophecy here foretold, or a hope for the future grandeur and perpetuity and liberty and prosperity of the then struggling infant Republic of Texas, but that Time has fulfilled, "pressed down, good measure, running over."

Not a poem bearing on the subject of the war has been excluded. The collection is as complete for the year 1836 as I could make it. It would have been an easy matter, and a pleasure, for me to annotate each poem, and possibly enlighten some readers whose study of Texas history may not have been so extensive as to understand fully every reference to Texas history herein cited, but I believed that it would mar the beauty of the poems to distract the reader's attention by a too promiscuous use of notes. I, therefore, present them to the reader with only such

necessary notes and annotations as regards author, time of publication, and, where known, the newspaper, periodical, or book, wherein first published.

It is hoped that the heart throbs here so faithfully depicted for love of home, freedom, independence, patriotism, and humanity, will find an echo in the hearts and minds of our own generation, who are the descendants of these sturdy pioneers, who planted fields in the wilderness, and upon the beautiful, flower-decked prairies, built their log cabins with axe in one hand and rifle in the other, and finally left, as a blessed heritage, this beautiful Texas, "the Lone Star State," for us to cherish and guard, by emulating the virtues of hospitality, courage and simplicity, so forcefully exemplified in their struggle for liberty and freedom.

As a prelude to the Texas poems, I wish to insert the following beautiful lines of fugitive poetry:

TO THE PIONEER

*A dirge for the brave old pioneer!
The patriarch of his tribe!
He sleeps—no pompous pile marks where,
No lines his deeds describe.*

*They raised no stone above him here,
Nor carved his deathless name;
An empire is his sepulchre,
His epitaph is fame.*

Theodore O'Hara.

TO ARMS¹

Boys, rub your steels and pick your flints,
Methinks I hear some friendly hints
That we from Texas shall be driven—
Our lands to Spanish soldiers given.
To arms, to arms, to arms!

Then Santa Anna soon shall know
Where all his martial law shall go.

¹These verses were written by N. T. Byars, of Washington, Texas, in 1835, upon the occasion of the receipt of a threatening proclamation from Santa Anna, addressed to the people of Texas. The declaration of Texas independence was written and signed in the house of N. T. Byars.

It shall not in the Sabine flow.
Nor line the banks of the Colorado.
To arms, to arms, to arms!

Instead of that he shall take his stand
Beyond the banks of the Rio Grande;
His martial law we will put down
We'll live at home and live in town.

Huzza, huzza, huzza! N. T. BYARS.

NEW YANKEE DOODLE²

St. Ana did a notion take that he must rule the land, sir;
The church and he forthwith agree to publish the command, sir.
In Mexico none shall be free.
The people are too blind to see.
They cannot share the Liberty
Of Yankee Doodle Dandy.

Ye Mexicans, henceforth beware, my central plan attend to;
My shoulders will the burden bear, no Yankee shall offend you.
In Mexico, etc.,

Of soldiers now he stands in need, but soldiers must be paid, sir;
He then dictates a law with speed to seize the Yankee trade, sir.
In Mexico, etc.,

Obedient to their tyrant's will, his myrmidions comply, sir;
The Texians see along their coast some vessels captured nigh, sir.
In Mexico, etc.,

To Vera Cruz they send each prize, each unresisting man, sir;
Remonstrance, too, is found unwise, it makes the foe less bland, sir.
In Mexico, etc.,

The Pirate Thompson's next essay, brave Hurd to capture, too, sir,
Resulted quite another way; such robbing will not do, sir.
In Mexico, etc.,

The Texians say they won't receive the central plan at all, sir,
But nobly go to meet the foe, with powder and with ball, sir.
In Mexico, etc.,

²*Telegraph and Texas Register*, October 31, 1835.

Huzza! for Texas volunteers, we are the boys so handy,
We'll teach the Mexicans to fear our Yankee Doodle Dandy.
Yankee Doodle, let us hear,
Yankee Doodle Dandy,
We'll teach the Mexicans to fear,
Our Yankee Doodle Dandy.

K.

TEXAS AND LIBERTY³

A brief suspense since last the muse
Of Texas sung, and chivalry;
Again the grateful task ensues
To note her glorious destiny.

The foes of freedom still may doubt
Her onward march to liberty,
Her faithful soldiers, brave and stout,
Assurance give she must be free.

A pleasing scene in Texas now
Dispels a momentary gloom,
When first was heard the despot's vow,
"To make its soil her freemen's tomb."

Such boasting ends, as well it may,
When men determine to be free,
Their rights defend, and dauntless say,
"Freedom or Death our motto be."

Gonzales, Goliad, Patricius
Record the actions of the brave,
In conflict with the vile and vicious,
The boasting minions of a slave.

At San Antonio Señor Cos
His safety seeks behind its walls;
At length impelled with signal loss
He yields to Texas rifle balls.

A gallant band of heroes go,
Assault him in his strong retreat;

³*Louisiana Advertiser* (New Orleans, 1836).

From house to house they drive the foe,
Who see no chance to shun defeat.

Three days and nights in battle strife
Brave Milam led till he was slain.
In freedom's cause he ends his life;
Surviving friends the fight maintain.

Till San Antonio fairly won,
Abandoned by the conquer'd foe,
Who Texas rifle-men to shun
Retreat within the Alamo.

Last refuge of this vile crusade,
Whence they despatch a flag of truce,
And humbly crave the victors aid,
To feed them on their homeward course.

The Texans generous as brave,
No longer foes, that boon supplies,
Their feuds now rest within the grave
And human kindness mark the wise.

Ye nations old a lesson take,
From Young defenders of their rights,
No sanguinary laws they make,
No lawless force their honor blights.

Justice and right they will extend
But when assailed by tyrant foes,
A peaceful home they will defend;
All who invade they must oppose.

Should lawless bands attempt again
To force submission to their yoke,
The gallant Texans, though humane,
May then decree—this truce is broke.

But if they will henceforth agree
In friendly intercourse to dwell,
Then Texas will as friendly be,
In kindness none will her excel.

One last resource for her remains,
 Full *Independence* to decree;
 Then in her sacrifice she gains
 That, which if lost, 'tis slavery.

And who that loves sweet liberty
 Can cease to aid its progress there?
 All respond, "*No*, she must be free."
 "*Texas and Liberty*," they cheer.

New Orleans, February 1, 1836.

H. K.

TEXIAN CAMP SONG⁴

Our rifles are ready,
 And ready are we;
 Neither fear, care, nor sorrow
 In this company.

Our rifles are ready
 To welcome the foe,
 So away o'er the Sabine
 For Texas we go.

For Texas: the land
 Where the bright rising star
 Leads to beauty in peace
 And to glory in war.

With aim never erring
 We strike down the deer;
 We chill the false heart
 Of the Red Man with fear.

The blood of the Saxon
 Rolls full in the veins
 Of the lads that must lord
 Over Mexico's plains—
 O'er the plains where the breeze
 Of the south woos the flowers,

⁴The following lines are a hasty after-dinner effusion of one of the sweetest living bards of England. They were shown us by a friend of the author, and are now, for the first time, given to the public.

As we press those we love
In their sweet summer bowers.

One pledge to our loves:
When the battle is done,
They shall share the broad lands
Which the rifle has won.
No tear on their cheeks.
Should we sleep with the dead,
There are Rovers to follow
Who will still "go a head,"
Who will still "go a head,"
Where the bright, rising star
Leads to beauty in peace
And to glory in war.

K.

THEY COME! THEY COME!⁵

They come, they come, the ruthless band,
To enforce the tyrant's foul decree
To desolate this smiling land,
The dwelling of the fair and free.
Sons of the West, the hour has come
Of victory or martyrdom.

These fields our brows have oft bedewed,
As bloomed the desert with our toil,
Shall be in blood more deep embrued
Ere thralldom stains the Texian soil.
When bleach our bones on every plain,
Then wolves may greet Santa Anna's reign.

When shall the aspiring traitor learn
The cost of such a dreary sway?
Behold yon warriors, few but stern,
Who front the invader's broad array—
True as the rifle to its aim
Each heart is to the cause they claim.

⁵The original manuscript of this poem is in my possession. I have never seen it in print.

On gallant souls, where glory calls,
And God and freedom be the cry;
Where one devoted patriot falls
An hundred ruffian slaves shall die.
And should they win one conquered rood,
'Tis with a slaughtered legion strewed.

On, while heroic shades look down
And view our kindred ranks with pride,
Your sires who fought with Washington,
Your brethren who with Mina died,
"Shame not your race," they cry, "ye brave,
Preserve a home or find a grave."

Blessed are the bowers no storms invade,
Where plenty reigns and hearts are warm;
Blessed are the free whose swords have made
Their dwellings safe from foe and harm;
But far more blessed the valiant dead.
Who die in honor's gory bed. J. R. W.

SONG OF THE TEXIAN PRISONER

Oh, my heart is sick and weary
With its ling'ring hope deferred.
Oh, these sunny days are dreary
To the soul by chains deterred.
Towards my country fancy stealing
Seems to elude my galling bands,
Till recalled by shameful feeling,
Urged to toil with fettered hands.

Days of durance! when victorious
Shall my country bid ye cease?
When midst brother warriors glorious
Shall I meet the smiles of peace?
Haply yet some rage shall doom me
In my chains uncheered to die;
And if so, 'tis welcome to me,
Ere my country's cause I'll fly.

J. F[REON(?)].

LAST CALL FOR ASSISTANCE⁶

Texians, to your banner fly,
Texians, now your valor try,
Listen to your country's cry;
Onward to the field.

Armed in perfect panoply,
Marshall'd well our ranks must be;
Strike the blow for liberty,
Make the tyrant yield.

Who is he that fears his power?
Who is he that dreads the hour?
Who is he would basely cower?
Let him flee for life.

Who is he that ready stands
To fight for Texas and her lands?
Him his country now commands,
Onward, to the strife.

Small in number is our host;
But our cause is nobly just;
God of battles is our trust
In the dread affray.

And when the war is o'er, we'll see
Texas safe and Texas free;
Glorious will our triumph be
On each bloody day.

J. FREON.

⁶Bolton and Barker in *With the Makers of Texas*, p. 159, quote this poem, but omit the last stanza, which I give here as penned in the original copy in my possession. They reprint it from the *Telegraph and Texas Register*, August 9, 1836, where the last stanza is also omitted. Drs. Bolton and Barker head it, "The Texas Marseillaise." The reader will note the words will not accommodate themselves to that tune, however. My copy reads to sing to tune, "Scots wha' hae." Drs. Bolton and Barker state "author unknown." J. Freon was undoubtedly the author in the absence of proof to the contrary. In my original manuscript copy, he states "written for Travis; The Last Call for Assistance."

THE TEXIAN WAR CRY⁷

Ye heirs of freedom! hear the war cry
Now swelling from ten thousand tongues
In shouts betokening victory
Blown o'er the world by trumpet lungs.
Awake! awake! the drum is pealing
On Bexar's woody hills around;
The tread of battle shakes the ground,
And rifles keen death shots are dealing.

Hurrah, hurrah, for war;
The battle flag waves high;
The rising of the Texian star
Shall light to victory!

Shall sons of Washington not rally
When war dogs howl on yonder plain
And rapine stalks over hill and valley
To bind us in oppression's chains?
Shall bigot violence and plunder
On Brazos' banks infuriate roam,
And fill with fear each peaceful home?
No! answer with the cannon's thunder!

And by that blood-stained altar kneeling,
The scathed and war torn Alamo
We pledge our all of patriot feeling
To hurl red vengeance on the foe.
But now the tyrant's foot is crushing
Each gray haired sire and blooming son
Who lifts in freedom's cause the gun,
And shall not patriots dare his rushing?

Then, heirs of freedom! hear the war cry
Now swelling from ten thousand tongues
In shouts betokening victory,
Borne o'er the world by trumpet lungs,

⁷This is the original copy of this poem, and was published and properly credited to G. V. H. Forbes, as here written, in the *Telegraph and Texas Register*, August 30, 1836.

Awake! awake! the drum is pealing
On Bexar's woody hills around!
The tread of battle shakes the ground,
And rifles keen death shots are dealing.

THE HEROES OF THE ALAMO^s

Bright was their fortune, and sublime their doom,
Who perished at the Alamo—their tomb,
An altar for their sons—their dirge renown!

Their epitaph nor rust shall e'er efface,
Nor time, that changes all things else debase,
Nor later ages in their pride disown!

Their tomb contains, enshrined besides the dead,
A mighty inmate: Her for whom they bled—
Their country's unforgotten fame.

Witness the heroic Travis, who in death
Did win high valors more than Pythian wreath,
A crown unfading—an immortal name!

CROCKETT⁹

Though sad was his fate, and mournful the story,
The deeds of the hero shall never decay;
He fell in a cause dear to freedom and glory,
And fought to the last like a lion at bay.

When rang the loud call from a nation oppressed,
And her valleys with slaughter of brave men were red,
'Twas the pride of poor Crockett to help the distressed,
And the watchword of Texas was heard—*Go ahead*.

His death-dealing rifle no longer shall shower
Its unerring balls on the proud haughty foe;
Cut down in the spring time of life's budding flower,
His tombstone, alas, are thy walls, Alamo.

^sA New Orleans paper, July 25, 1836.

⁹From the *New York Star*, 1836.

Then may we not hope, since valor has crowned him,
And o'er him bright fame her mantle has spread,
In the soul's parting hour good angels were round him,
Bid his spirit arise to the skies, "Go ahead."

DAVID CROCKETT

He fell as doth a lion bold,
Beneath a tyrant's hand;
The warm heart now in death lies cold
Within a foreign land;
And cursed be he who aimed the blow
That laid this noble warrior low.

He fell amidst a sturdy band,
The bravest of the brave;
Death struck the sabre from his hand,
And laid him in the grave;
But memory for him will shed
A tear to bless the noble dead.

And round the graves of those who died,
And fell like him in battle's fray,
'Twill be Columbia's poet's pride
To write their glories in their lay;
'Neath the proud Eagle's wide spread wings,
Fearless of despots or kings.

Santa Anna, o'er thy head may wave
The bloody flag to affright the free;
But to the good and to the brave
'Tis not the flag of liberty;
And whilst remembrance has a claim
To know mankind, 'twill curse thy name.

'Twill curse thy name because thy deeds
Are writtten on the page of time;
But like the valorous heart that bleeds,
But like a wretch besmeared with crime;
A wretch who wields a tyrant's rod,
Unmindful of his soul and God.

But sleep on Crockett—though thy bed
Is far from thy dear native home;
Yet, he who venerates the dead,
Will bid some stranger there to roam,
That he may shed a tear for thee,
And plant the flag of Liberty.

HYMN OF THE ALAMO¹⁰

“Rise, man the wall, our clarion’s blast
Now sounds its final reveille;
This dawning morn must be the last
Our fated band shall ever see.
To life, but not to hope, farewell!
Yon trumpet’s clang, and cannon’s peal,
And storming shout, and clash of steel,
Is ours, but not our country’s knell!
Welcome the Spartan’s death—
’Tis no despairing strife—
We fall!—we die!—but our expiring breath
Is Freedom’s breath of life!”

“Here, on this new Thermopylae,
Our monument shall tower on high,
And ‘Alamo’ hereafter be
In bloodier fields, the battle cry.”
Thus Travis from the rampart cried;
And when his warriors saw the foe,
Like whelming billows move below,
At once each dauntless heart replied,
“Welcome the Spartan’s death—
’Tis no despairing strife—

¹⁰This poem has a national reputation, and is beloved by Texans. It was first published at Columbia, Texas, in the *Telegraph and Texas Register*, Wednesday, October 5, 1836, and signed “P.”

In the publication in the *Telegraph and Texas Register*, in the second stanza, the seventh verse reads “angry billows” instead of “whelming billows,” as in this corrected copy. The eighth verse, same stanza, reads in *Telegraph and Texas Register*, “each dauntless heart at once replied”; here reads, “at once each dauntless heart replied.” In *Telegraph and Texas Register*, the third stanza, fifth verse, reads “The last was felled the fight to gain,” and here it reads, “Till falls their flag when none remain.”

We fall!—we die—but our expiring breath
Is Freedom's breath of life!

“They come—like autumn's leaves they fall,
Yet, hordes on hordes, they onward rush;
With gory tramp, they mount the wall,
Till numbers the defenders crush—
Till falls their flag when none remain!
Well may the ruffians quake to tell
How Travis and his hundred fell
Amid a thousand foeman slain!
They died the Spartan's death,
But not in hopeless strife—
Like brothers died and their expiring breath
Was Freedom's breath of life!

R. M. POTTER.

VENGEANCE ON SANTA ANNA¹¹

Vengeance on Santa Anna and his minions;
Vile scum, up boiled from the infernal regions;
Dragons of fire, on black sulphurous pinions,
The offscouring baseness of Hell's blackest legions;
Too filthy far, with crawling worms to dwell,
And far too horrid, and too base for hell.

These dragons, rushing from black shades infernal,
Across the lovely, fair, and beauteous Texas,
Of spite implicate, and of hate eternal,
With bloody fangs devour all ages, sexes;
More cruel far than death, than demons even,
Making a graveyard what were almost heaven.

No prayers for mercy, poured from deep affliction,
In tears, in lone despair, and bitter anguish,
Can save the poor, betrayed, and hapless Texian

¹¹To the editor of the (New Orleans) *Bulletin*: The enclosed was written on Monday, after having read the melancholly intelligence of the “Fall of San Antonio,” and the inhuman butchery of the garrison. It was intended for Tuesday's paper. If you think it worth inserting, it is at your disposal.

From chains and dungeons dark, where he must languish;
From death most horrid, with its utmost woes,
The joy, and sole invention of his foes.

Oh Heaven, if Heaven there be; God of salvation,
Dost thou not hear thy suppliant children crying
For mercy? See their woes and desolation;
Chains, prisons, groans, tears, agony, and dying.
Thy powerful arm in their dear cause extend,
And save thy children, and their homes defend.

O, Santa Anna, infamous aspirant;
Thy aspirations shall soon end in sorrow,
Columbia's soil cannot support a tyrant:
Thy course is finished; boast not of tomorrow;
And o'er thy grave shall Freedom's standard soar,
And her bright stars there shine to fall no more.

TEXAS¹²

Hark! from the land where blooms the rose
Throughout a year of fruits and flowers,
The clarion's call! for Freedom's foes
Would dare invade her sacred bowers.

There has the settler reared his home
By hardy toil and bold emprise,
And from religion's peaceful dome
His grateful prayers to Heaven arise.

His children round the cottage hearth,
The infant on his mother's knee,
Were taught the holiest law on earth,
Which God approves, is to be free!

And now the hour has come at last,—
Rebellion's smothered cry has broke;
Too long in galling bondage cast,
They swear to crush a tyrant's yoke.

¹²From the New York *Spirit of the Times*, 1836.

Hark! from the land where patriots dwell,
The clarion's call, a wail of grief!
Shall Texas fall as Poland fell?
No arm be raised for her relief?

No! By the arm which led them on
To settle in that fairy clime,
They'll laugh blest freedom's foes to scorn,
Or perish in the cause sublime!

Oh, righteous cause! when man, opprest,
Girds on the sword to do or die,
His name in glory's page shall rest,
And angels waft his soul on high!

Though dark oppression o'er her lower,
From bondage Texas shall arise,
And crush a haughty despot's power—
Her flag triumphant sweeps the skies!

P. L. WADDEL.

THE TEXAN'S SONG OF LIBERTY

When the locusts of tyranny darkened our land
And our friends were reduced to a small Spartan band,
When the Alamo reeked with the blood of the brave
And Mexican faith slept in Goliad's grave,
When our star, that had risen so beautifully bright,
Seemed destined to set in thick darkness and night,
'Twas then our proud leader addressed his brave men
And the prairies of Texas reechoed—Amen.

"On, on, to the conflict, ye Texians brave,
March forward to victory or down to the grave!
Let your swords be unsheathed in liberty's cause,
And your bosoms be bared in defense of your laws!
Let your watchword be Fannin, in treachery slain,
And Alamo's sons, whose bones whiten the plain!

"For your friends and your homes let your rifle be aimed,
For your country that's bleeding, exhausted, and maimed;

Go, show to the world that our handful of braves,
Can never be conquered by myriads of slaves!"
'Twas said, and the single starred banner waved high
O'er the heads of our hero, whose deep slogan cry
Made the cravens of Mexico tremble and cower,
While our bugles rang forth, "Will you come to the bower?"

WILLIAM BARTON.

THE TEXAN SONG OF LIBERTY¹³

Hark, the clarion sounds "To Arms,"
The welkin rings with war's alarms,
The youth awake to glory's charms,
And high souled chivalry.

A host is on the battle plain,
And murderers lead the motly train;
The Texan chiefs are with the slain,
Martyrs to Liberty.

Brave Houston leads a gallant band,
Felix¹⁴—the happy—takes command,
Rush, freemen, to the promised land,
And Texas shall be free.

Wilson,¹⁵ who never knew a fear,
With young Fayette's will soon be there,
Name to honor ever dear,
They'll fight most valiantly.

Sisters and mothers stay your tears;
Maidens and wives allay your fears;
See, Liberty our flag uprears.
And leads to victory.

Santana, savage fiend, no more
Our lovely fields shall drench with gore;

¹³For the *Lexington Intelligencer*, 1836, Mississippi or Kentucky.

¹⁴General Felix Huston, commander of the volunteers from Mississippi.

¹⁵Colonel Wilson, commander of the volunteers from Kentucky; most of them were from Fayette County.

The monster never met before
So brave an enemy.

He dared, all used to coward men,
To beard the lion in his den;
Oh, never let him out again,
Agents of destiny.

That Pharaoh host had crossed the tide,
The arms of God,¹⁶ then outspread wide,
And to the perjured foe denied
Fresh feats of perfidy.

Religion, can thy holy name
Associate with pollution—shame?
The blood-red flag thy sanction claim?
And such ferocity?

The gentle Jesus ne'er was trained
To deeds of blood, but peace proclaimed;
Not priest-craft, but good will ordained
And sacred charity.

Sound, clarion, sound; on, freemen on,
To Brazos' banks, where deeds are done
Worthy immortal Washington,
And all eternity.

Lexington, May 15, 1836.

SANTA ANNA¹⁷

Back, back to thy covert, thou blood hound of death,
There is woe in thy footstep, and guilt in thy breath;
Thou warrest with women, thou curse of the brave,
Thy pity is blood, and thy mercy the grave.

But soon the dread hour of avenging shall come
When thy cheek shall be blanched, and thy utterance dumb,

¹⁶The river Brazos de Dios.

¹⁷From the original manuscript copy in my possession. I have not seen this poem in print. It is in the handwriting of J. R. W., and in the absence of proof to the contrary I credit it to him.

When thy arm shall be palsied, crimsoned with gore,
And the cold sweat of terror escape from each pore.

Did you fight for the wolf or the tiger so wild?
Was your cruelty strange to the forest's red child?
Did the blood of the whites ever quicken your veins?
Are you human in form, thou monster in brains?

Back, back, to thy lair where the red wolf shall yell,
Where thy name shall be spoken in forest or dell;
Sink down in your grave, or bid mortals adieu,
Thou scorn of the wise and the brave and the true.

Long ages shall roll, but thy shame shall remain,
The pirate shall shun thee again and again;
The mountain cat flee from thy presence away,
And the truant boy over thy lowly mound play.

The aged shall curse thee, thou thirster for gore,
The worm shall be sickened with gnawing thy core,
The tombstone shall blush that points to thy grave,
Thou scorn of the true and the wise and the brave.

SAN JACINTO; A PARODY¹⁸

On San Jacinto's bloody field
Our drums and trumpets loudly pealed,
And bade a haughty tyrant yield
To Texian chivalry.

Our chieftain boldly led the van,
His sword grasp'd firmly in his hand,
And bade us tell the Mexican
To think of Labordia.

'Twas evening, and the orient sun
Into his bed was moving on
When our young heroes rush'd upon
The might of Mexico.

¹⁸For the New Orleans *Commercial Bulletin*; written two days after the fight by a gentleman who was in the battle.

*La Bahía—Goliad.

Santa Anna traveled far to see
What men could do who dare to be free,
In spite of Spanish musketry
Or Mexican artillery.

The boldest sons of Mexico
Have learned to fear a freeman's blow,
And dread the shout of "Alamo"
From Sons of Liberty.

'Twas cheering to a Texian eye
To see Santa Anna's legions fly
From Texas' dreadful battle cry
Of death or victory.

The carnage ceased, in triumph then
Proudly shown the Texian Star,
And vengeance on her conquering car
Reposed most quietly.

Long shall the dark browed maids of Spain
Remember San Jacinto's plain,
And weep for those they ne'er again
Shall meet in revelry.

BATTLE OF SAN JACINTO

Of San Jacinto let us sing,
And of the Texian heroes,
That captured Mexico's proud king,
And all his bloody heroes.
Oh, San Jacinto was the fight
The Texians delight in
For there they used with all their might
The power they trust they're right in.
Oh, Jacinto! San Jacinto!
The heroes of Jacinto.

'Tis said that Houston, wily chief,
Did bait with aggravation
Their rage, in fighting to be brief

With battle's desolation.

He said, "Be cautious, daring boys,
The foe are twice our numbers;
Remember Fannin's fate, and Bowie's,
Perhaps, an ambush slumbers."

But when they thought of Travis' fate,
Of Fannin, King, and Crockett's,
They broke all checks with scorn and hate
And rushed to fight like rockets.
Then Sherman raised the eagle's wings,
Millard and Burleson swooped on,
And "Alamo" made Heaven ring
Above the prey they stooped on.

In eighteen minutes, or less time,
The foemen's works were taken,
And all his dark machines of crime,
By flying crowds forsaken.
The gallant Hockley threw the hoards
Of certain aiming thunder,
And brave Lamar and Karnes' swords
The flying cut asunder.

And daring Rusk, too, laurels won,
Amidst the foremost danger,
And showed the worth of Jefferson
Was to his name no stranger.
The Texians all, with single soul,
Resistless rushed in battle,
And crushed the foe, in blood to roll,
Or fly like frightened cattle.

Eight precious lives the Texians lost,
And seventeen but wounded;
But of the foe, six hundred crossed,
And by the Styx are bounded.
More than two hundred wounded groaned,
With seven hundred nabbed on,
And all their arms and money loaned
By bigot priests were grabbed on.

Oh, such a fight ne'er any time
Nor nation has afforded,
When guilt victorious for their crimes
Directly were rewarded.
Sure, heaven was in the fiery fight,
And God's indignant mercy,
For human nature's wounded rights
Led on the controversy.

Now, listen, all of every land,
Of each degree and station;
Though tyranny's o'erpowering hand
Awhile may crush a nation
And triumph with a horrid din,
Secure in servile numbers,
'Twill meet at last the might that in
The arms of freemen slumbers.

J. F[REON(?)], a Volunteer.

Velasco, December 7, 1836.

TEXAS¹⁹

I hear them still; lo, where the footsteps thronging,
Of armed thousands break upon the ear,
And the tired sense is now for silence longing,
Yet strains again the distant sounds to hear:

Lo, where unnumbered plumes are proudly waving,
And helmets flittering in the sun's broad beam,
And the fierce war horse his proud hoofs is laving
In the red blood that flows in many a stream.

'Tis there the battle now is madly raging,
And foe with foe maintains a fearful strife,

¹⁹"It will be a matter of great interest, a few years hence, to possess the various contemporary poems and speeches relating to the dawning nation of Texas. We will give our mite for the benefit of future collectors, by preserving a few [four printed next below] of those which have last come to us in the mail papers. The following have no title, and bear the signature of S. A. M. They appear in the *Gloucester* (Massachusetts) *Telegraph* and seem to refer to the late Texas triumph over Santa Anna."—*New York Mirror*, July 30, 1836.

And the doomed hero, still the contest waging,
Falls while he deems his own a charmed life.
Brave men and true, in freedom's cause unshaken,
Yours was the task to make the cowards quail,
Yours the blest songs of liberty to waken,
Till the loud echoes rung through wood and vale.
Sing, for the conquerer's arm is now victorious,
And war's shrill clarion hath not called in vain,
And freedom's banners now are floating glorious
Above the field where sleep the early slain.

S. A. M.

STAR GEMMED BANNER²⁰

Lift, lift, the star gemmed banner high,
And bid it flutter in the gale,
Bid time's remotest hour reply,
While children's children tell the tale—
How Texas from the tyrant's yoke
Her chain of damning bondage broke,
How glory gave her brightest wreath,
When Crockett closed his eyes in death.

Star of the brave, whose sisters glow
In fair Columbia's flag of light,
Which freedom, in her virgin throe,
Gave forth to cheer a world of night;
We bid thee gleam untarnished high,
Beneath whose light the brave can die,
We bid thee shine, while time shall last,
On ensign staff or giddy mast.

Fling wide the banner o'er the wave,
To gleam where mortal foot has trod;
Shine out, thou glory of the brave,
Thou last, though dearest, gift of God;

²⁰"The 'Address to the Texians,' which we next retain in order, is ascribed by the *Boston Gazette* to Mr. John E. Dow: it appeared first in the *Washington Telegraph*, and bears date Washington, May the second, 1836."—*New York Mirror*, July 30, 1836.

Shine out, as when on Eden's height
 The mandate pealed, "Let there be light";
 Shine out, while wondering millions gaze
 To catch young freedom's dazzling blaze.

Thou star that gleams 'mid morning's light,
 We welcome thee in youthful prime;
 We bid thee gleam in splendour bright,
 A new born planet of our time.
 Alamo fell beneath thy fold,
 While history traced thy fame in gold,
 (Broad as the light which glory flings)
 With pinons pluck'd from angel's wings.

Shine on; thou mad'st Sant' Anna cower,
 When Mexic's slaves in panic fled,
 When Cos in nature's fairest bower
 In terror bent his bleeding head,
 We bid thee live, thou dazzling gem,
 A scion of a noble stem,
 Till heaven shall lose her starry host,
 And shall become a nation's boast.

FLAG OF TEXAS²¹

Float on, thou bright young banner,
 Adopted by the free,
 When at the cannon's mouth they swore,
 For death or liberty.
 Thou child of peril, the stripes that date
 Thy yet unwritten story
 May gather stars and wave o'er fields
 Where freemen fight for glory.

The breeze of heaven shall bear thee
 Upon its sunny wing,
 Until the triumph of thy star
 The dove of peace shall bring.

²¹"We now turn to an invocation to the 'Flag of Texas,' which appears in the *Baltimore Patriot*, and is signed J. M. M."—*New York Mirror*, July 30, 1836.

Thy birthplace was the field of blood,
And war's terrific thunder
Did cradle thee, till thou hast broke
Oppressor's bonds asunder.

Among the flags of nations,
There is a place for thee,
Flaunt up, thou bright young banner,
Flaunt proudly o'er the free.
The stripes and stars shall lead thee on,
That o'er Columbia wave;
Float on in sweet companionship,
Proud banner of the brave.

TEXAS²²

Like torrents to the plains below
Rushed on the fierce ensanguined foe,
And dark and turbid was the flow
Of Brassos rolling rapidly.

But Texian heroes armed for fight
Rolled onward in their stormy might,
Where fires of death had marked the site
Of havoc's gory scenery.

In phalanx firm and fast arrayed,
Each soldier drew his trusty blade,
And at one charge in death was laid
Half of their savage enemy.

Then from the fated field were driven
Bexar's inhuman legions—riven,
And proof to all the world was given,
How men can fight for liberty.

Nor is the fearful conflict o'er,
While yet the distant cannons roar,

²²“And in the *Mississippi Christian Herald*, we read the following, evidently imitated from Campbell, and descriptive of the late glorious victory. It is headed ‘Texas.’”—*New York Mirror*, July 30, 1836.

Like far-off thunder on the shore,
 Illumed by deeds of bravery.

Then arouse, ye sons of freedom, go
 Avenge the fall of Alamo
 And teach yon more than savage foe,
 How hard to fight for slavery.

Drive far into the desert gloom
 The wretches who would seal your doom,
 Denying life, or e'en a tomb,
 To freedom's fallen chivalry.

* * * * *

The combat's o'er; now rest, ye brave,
 Who fought for vict'ry or the grave,
 And let that star-bright banner wave—
 Its motto—God and liberty.

ADDRESS TO THE BRAVE AMERICANS OF THE SOUTH AND WEST²³

March! march! each brave American,
 The 'blood-red flag' is near our borders
 Rush! rush! rush like the hurricane.
 Quick! volunteer, *wait not for orders!*

The 'starry banner' spread,
 Shall then float o'er your head,
 And sabres shall clash sweeping and gory;
 Come to the rescue then,
 Ye brave Kentucky men.

Riflemen! tell them the New Orleans story.

March! march! brave Carolinians!
 Remember your fathers and your own Marion—
 March! march! ye noble Virginians,
 Come to the sound of drum and of clarion.

Let them come on, let them once cross the Sabine;
 They shall meet then the Romans of modern times;

²³From the *Baltimore American*, 1836.

There let them once show their banner of rapine,
The 'massacre' flag deeply stained with their crimes!
Ochmulgee and Flint rivers pour forth your sons;
Montgomery! Mobile! be first in the field;
Louisiana! Missouri, come on at once,
And be to your country banner and shield.

The Indians are coming, they'll ne'er come again,
Nor the breath of their nostrils be breathed among men;
But darkly and lonely they all shall be laid
In the graves which our sabres and lances have made.
With the rifle and lance and Bible in hand
We'll lawfully enter the long 'promised land,'
And sweep from this planet these new 'Moabites,'
And drive from the prairies these 'Canaanites.'

Come to the rescue! oh, come to the frontier;
Why in soft dalliance longer stay here?
The blood of our kindred will be purpling the river!
And should we forgive ourselves? never! no never!
The Comanche, the Pawnee, those Indian tribes,
Bought over by Mexican munitions and bribes,
Are once more preparing, roused from their lair,
To lay our frontier desolate, bare!

We'll meet all those savages, headed by 'Neroes,'
Only be ready men, be soldiers! be heroes!
For war shall be waged alas! too horrific,
And peace be granted only on the Pacific,
Trumpets are sounding, war steeds are bounding.
Stand to your arms, and march in good order;
Mexico shall many a day tell of the bloody fray,
When first the 'blood-red flag' came over the border!

Oft in the stilly night
On the far prairie,
With the stars for our light,
The hymn of liberty.
Shall be sounded yet.

Great Heaven! guide us right;
Renew our souls aright,
Guide us by day and night—
Our surest and best light!

Oft in the stilly night
On the far prairie
With the stars for our light,
The hymn of liberty
Shall be sounded yet.

And when we have perished, dead to this world,
In current of the heady fight,
Freedom's own glorious banner still unfurled
Shall beam, in one unclouded light,
A beacon to all future ages
When heroes and the best of sages
Shall point out where the fight was done,
Exclaiming, "another Marathon!"

And all that perish on that day,
Their souls ascending with swiftest pinions,
Shall yet look down while on their way,
To brighter far, and more vast dominions.
While yet the smoke of the battle field
From other eyes the scene may shield,
The rifle, sabre, and the lance
Shall yet be seen by our keen glance.

Till wafted to the great 'elsewhere,'
We cleave ethereal fields of air,
To render to the great Supreme,
The one eternal, glorious hymn.

Baltimore, April 25, 1836.

JAMES DICKSON.

THE TEXIAN BANNER

O say, does the martyr-blest banner still show
Victorious the star of the Texian nation,
That shone so triumphantly out on the foe,
Like the sweet star of hope amidst extermination,
Where Jacinto's dread air was a breath and a snare

From the ghosts of Alamo and Goliad's pyre,
 Its signal for freedom displaying abroad,
 With vengeance and glory for man and for God?

O say, shall that banner e'er sink in the fight,
 Beneath the dark mandate of annihilation,
 While tyranny, trampling on all human right,
 Shouts, "havoc and ruin are my exaltation"?
 Oh, no, thou just God! with victory's rod
 The hands of brave freemen thou lov'st to applaud,
 Thou still will defend us and give us success
 Till safety and peace our dear banner shall bless.

Come on then, ye freemen, to battle come on,
 The free are returning and swear desolation;
 They are mustering their bands, and in numbers alone
 They trust, with a cruel and fierce expectation:
 Let the free volunteer with his armor appear,
 And force the oppressor to yield and to fear,
 Then the sweet star of hope, like a heavenly isle,
 On the banner of Texas with triumph shall smile.

J. FREON, *a Volunteer.*

PATRIOTIC SONG²⁴

Texians brave! whom Houston led,
 Again the foe our blood would shed;
 Again they court a gory bed,
 As on Jacinto's plain.

There are things to be remembered yet;
 The orphan's eyelid still is wet,
 And Fannin's fate do we forget?
 No, nor the Alamo!

Though they can solemn treaties break,
 Our constancy they cannot shake;
 The swords we reaping hooks would make,
 We still as swords can wield.

Then sound to arms, to arms! ye brave!
 One single Star shall blind the slaves,
 While bugles give, as once they gave,

Their "Welcome to the Bower." J. R. W.

²⁴*Telegraph and Texas Register*, February 21, 1837.

BRITISH CORRESPONDENCE CONCERNING TEXAS

XXIV

EDITED BY EPHRAIM DOUGLASS ADAMS

ELLIOT TO KENNEDY¹

[Enclosure.]

Copy.

Charles Elliot.

Confidential

Galveston, Feby. 15th 1846

Sir,

If the Master of any British Vessel (arriving at this Port after the Custom House Authorities appointed by the Government of the Republic have retired from the performance of their duties) should apply to you for advice, you will guide yourself by these instructions.

You will counsel him to proceed to the Custom House accompanied by the Mate of the vessel admonished to be heedful of any conversation that may pass at that place between the Chief person engaged in the Collection of Customs duties and himself. If he should find that he is permitted to enter under any other authority than that of some existing revenue or Navigation law of the Republic of Texas, you will advise him to state that he had arrived here to trade under the treaty of Commerce and Navigation between Her Majesty The Queen of Great Britain and Ireland and the Republic of Texas, signed at London November 13th 1840, and whereof ratifications were exchanged at London June 28th 1842, that he claims the rights privileges, liberties, favours, immunities and exemptions secured to Her Majesty's Subjects trading in Texas under that Treaty, and enters protest against all proceedings taken, or to be taken contrary thereto, as respects the Ship of which he is Master, and the goods of her lading.

You will further advise him, as soon as any duties shall be charged against the Ship or Cargo under the authority of any other than some existing law of the Republic of Texas to pay the same, and extend his protest, causing it to be served upon the

¹F. O., Texas, Vol. 16.

Chief person engaged in the Collection of such duties. For your more complete guidance herein I forward a Memorandum of the particulars which it may be needful to specify in the protest, together with any others which may occur on the occasion.

You will govern yourself in all matters of Commerce and Navigation affecting British Subjects at your Consulate who may apply to you for advice, upon the understanding that the stipulations of the treaties in existence between Her Majesty and this Republic remain in the same position as if Texas had continued an independent Power, but you will carefully observe that this view is confined to the subject matter of those treaties, and offer no objection or remark upon any other change of authority or jurisdiction.

In case of any refusal upon the part of the persons in authority at your Consulate to extend to you all the rights, privileges, and immunities accorded to Officers in your station by the law of Nations, and stipulated in the 7th Article of the treaty of Commerce and Navigation of the 13th November 1840, you will report the particulars to Her Majesty's Principal Secretary of State for Foreign Affairs; but you are particularly cautioned to conduct yourself with the utmost circumspection, and to avoid as far as may be possible consistently with a due discharge of your duty, any discussion or correspondence with the persons in Authority at Your Consulate.

Till you are further instructed you will be pleased to forward all letters or despatches which may reach you to my address to the care of H. M. Consul, New Orleans.

Charles Elliot.

P. S.

You will be so good as to hand the accompanying letter to the Commander of any of Her Majesty's Ships who may arrive at Galveston during my absence.

C. E.

To Wm Kennedy, Esqr.

H. M. Consul.

Galveston.

MEMORANDUM BY ELLIOT²

Memorandum respecting particulars of protest adverted to in Captain Elliot's despatch to Consul Kennedy, dated Galveston Feby. 15th 1846.

The Ship's name, tonnage, owners, British port of registry, last British port cleared from, general description of Cargo, to what place or places bound, the names of any ports She has touched at during her voyage, date of arrival in the Port of Galveston, statement of communication with the persons declaring themselves to be engaged in the collection of revenue their proceedings, amounts of money charged by, and paid to them on account of the Ship or Cargo, and finally Master and Mate to protest as well as any Consignees of Cargo if they see fit on their own behalf and on the part and behalf of the Owners and all others interested or in any respect concerned in the Ship or her Cargo against.

(Specify here, the name and declared offices of the chief person and any other person or persons engaged in the Collection of the required duties or charges, or put on board the ship by the authority of the Collector.)

And against all others whom it doth or shall concern for all losses, damages, costs, expences and prejudices actually suffered or which may hereafter ensue by reason of charging upon and requiring from the said ship, or the goods of her lading in the Port of Galveston in Texas any duty of Customs or imports under any authority other than that of some existing law of the Republic of Texas, and for all and every violation, as respects the said ship and her Cargo, of the stipulations of the treaty of Commerce and Navigation between the Queen of Great Britain and Ireland and the Republic of Texas signed at London November 13th 1840, and whereof Ratifications were exchanged at London June 28th 1842.

(Signed) Charles Elliot.

[Endorsed.] In Capt'n Elliot's of Feb. 15/46.

²F. O., Texas, Vol. 16.

ELLIOT TO ABERDEEN³

No 14.

Galveston,
Feb'y. 16th 1846.

My Lord,

By information from Corpus Christi of the 14th Inst. we learn from what I think may be taken to be an authentic source that the American force there has been ordered to advance upon the Rio Grande as soon as possible. It seems probable that the main body will be directed in the first place upon Point Isabel, and that the Brassos Santiago will also be occupied. These are the avowed objects of the movement, but if any pretext should present itself, I think there can be no doubt that Matamoros will be immediately seized.

In my former despatches I have had the honour to remark to Your Lordship that it seemed to me it would have been proper, on military principles, to keep this small force assembled at some convenient points on the American side of the Sabine, and I feel assured that if that were the case at the present moment, they could be taken to the Mouth of the Rio Grande, and landed there in a much stronger and more effective condition than they are now, much sooner than they can arrive from their present position.

I do not believe that their moveable Column will exceed 3,000 Men, and the health and spirit of the troops must have necessarily suffered considerably from a long and unnecessary exposure in a very ineligible position, on extremely bad water. They could not move before the 1st Proximo, and unless the beach is practicable the whole way, which remains to be ascertained, not before a considerably later period, owing to the condition of the praries. Some uneasiness seemed to be felt respecting a small detachment of dragoons.

Charles Elliot.

To the Right Honourable.

The Earl of Aberdeen., K. T.

³F. O., Texas, Vol. 16.

ELLIOT TO ABERDEEN⁴

No. 15.

Galveston.

Feb'y. 16th. 1846.

My Lord,

The Government of this Republic will be dissolved this day, and suffering from a recent attack of indisposition I shall take the liberty to proceed to New Orleans for change of air, and wait there for my next instructions from Her Majesty's Government unless any thing should transpire in the mean time requiring my return to this place.

Charles Elliot.

To The Right Honourable

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN⁵

No. 16.

Galveston.

February. 16th 1846.

My Lord,

Before the dissolution of this Government I think it may be convenient to submit some remarks to Your Lordship on an error which has been prevalent in this Country and in the United States respecting the late negotiations between Mexico and Texas.

In the United States especially it has been generally supposed that it was Mexico which proposed to Texas to acknowledge her independence on the condition that Texas should not Annex herself to that Country in particular, and it was urged that Texas could not have accepted that condition without discredit. Her Majesty's Government are aware that this is a complete mistake in point of fact and form. It was the Government of Texas which proposed, not Mexico, and the proposed condition did not mention the United States. The language was general, and the French Minister at Mexico particularly remarked that that circumstance was important, for a stipulation so shaped could give no just offence in any quarter.

Texas had a right to maintain her separate existence, and it will be admitted that such a course would have been in accordance

⁴F. O., Texas, Vol. 16.

⁵F. O., Texas, Vol. 16.

with her formal declarations to the world, and her pledges, direct and implied, to those Powers, which had only acknowledged it upon the assurance, that she would. With that right, and that obligation of self respect, it is not easy to see why she should not offer to make the stipulation in question for peace sake, in the final treaty with Mexico. It would have been justifiable and honourable, and that cannot be said of this repudiation of independence and Nationality. If the people of Texas had been left to their deliberate choice there is ground to believe that they would have ratified the worthier policy; but intrigue, and factitious excitement, and haste prevailed, compassing an act of folly and discredit; which, however, it is only just to repeat that two thirds of the voters of the Country have failed to support at the polls.

The President of the United States in his opening Message to Congress, has fallen into an aggravated degree of misconception on the subject of this condition, deciding that Mexico had no right or authority to prescribe restrictions on the form of Government which Texas might afterwards choose to assume. Without dwelling on this exposition of the right and authority of Mexico to look to her safety with what care she can, it is impossible to miss the observation of her great need to do so; and it is also requisite to come back to the facts of the case in this particular, not distinguishable from President Polk's account of them.

It was Texas that was proposing, not Mexico that was prescribing, and there was no question of form of Government at all, before or after, but of the much more vital consideration to Mexico of who was to be conterminous with her. It is a very inaccurate and arbitrary expression of the circumstances of the case, and the motives which influenced Mexico to say that she was prescribing restrictions on the form of Government that Texas might choose to assume. Mexico did no more than accept the exact conditions proposed by the Government of Texas, and execute an additional Act, reserving her rights if those conditions should not be ratified by the people of Texas.

That Act was perhaps superfluous, for the rejection of the Conditions by the Legislature of Texas restored the statu quo, but it is plain that Mexico had a perfect right and some need to provide beyond the possibility of fair question, that her assent to particular

conditions offered by Texas was not to be construed into a surrender of a totally different nature and extent, to a third party. If the Act did nothing else, it proved that Mexico had a clear foresight of the pretension and augmentation that might be looked for in the quarter to which the transaction had reference.

Your Lordship will remember that one of the preliminary conditions provided that limits and other conditions should be matter of arrangement in the final treaty. It appears, however, from another part of the Message that the limits of the United States are peacefully extended to the Del Norte already, which expression it is to be apprehended may complicate the difficulty of settlement with Mexico, for in their construction it will be taken to be no more than a formal mode of announcing that the Countries are appropriated, and the treaties violated, though indeed, there is to be no violence for the mere sake of violence. Mexico will hardly consider this to be any thing else than a plain declaration that the dismemberment of their Country has been commenced by the United States, peacefully if possible, violently, if necessary. "Care will be taken Mr. Donelson writes to Mr. Buchanan on the 11th "June 1845" to throw "the responsibility of aggressive measures on "the Government of Mexico".

I cannot but remark, My Lord, that the purposes respecting this out lying territory, and the kind of care which has been taken to cast the responsibility of aggressive measures upon Mexico are copiously developed in the Official correspondence lately laid before Congress by President Polk. With that, and the other evidence before the world respecting these affairs it is certainly sanguine to hope that mankind will join in general sentence of condemnation against Mexico for aggressive and wrongful conduct towards the United States if the Mexican Government and people should see fit to defend their Country against what is not less than invasion, because it is called peaceful extension.

Mr. Polk's judgment of the conclusiveness against Mexico of an agreement to acknowledge the independence of Texas, with or without conditions, at once sweeps over broad spaces of latitude and longitude. It involves the conclusion, not only that Mexico has by her own Act (in a directly contrary spirit and letter) surrendered all right to object to the assignment to the United

States by the Texians, of the territory in their actual occupation, but that she has forfeited all claim to immense Mexican regions beyond these limits in which the Texians have never yet had a settler, which have always formed a part of other Mexican States, and which are occupied by a Mexican population scarcely less numerous than the population represented in the Texian Legislature. If such decisions prove conclusive against Mexico, their force will not be the force of justice and reason.

In closing this despatch I venture to say that I was prepared for the disclosures, in the correspondence between Messrs. Donelson and Buchanan respecting the preliminary treaty acceded to by Mexico. Speaking of it in a letter to Mr. Buchanan (August 16th 1845) Mr Donelson complains that "But for that treaty and the "proclamation which grew out of it, our position on the question "of boundary would have been less embarrassed".— And in another letter to the same quarter (July 16th 1845) he was still more explicit upon the obstructions thrown in the way of particular purposes respecting this important point, by the preliminary treaty and the suspension of hostilities proclaimed by the President of Texas. I had for some time been sensible that the disposal of this coveted Mexican territory was the single consideration left of real moment in these affairs, and that it was highly desirable that colourable Texian occupation should not be suddenly obtruded within it, before this Republic formally signified it's willingness to join the North American Confederacy. The Country in the actual occupation of the Texians is of little value in their condition of a State of the Union, possessing Millions of unoccupied acres of better land, or at least of equal fitness for the same products, and incomparably more conveniently situated for Markets.

Neither can the possession of this territory add to the political strength of the United States, for it is almost bereft of the resources which would help that object, having neither eligible harbours, nor easily navigable rivers, nor any other natural elements of Military power. At all events it had been lost to Mexico long since. Your Lordship however is aware that I was informed of the plots in preparation at that very moment for the seizure of the territory which was not lost to her, nominally to the Texian Mili-

tia; really by other Agency, and arms and funds. In view of that circumstance, a suspension of hostilities on the part of the Government of Texas was no doubt an object of importance at that conjuncture. Fully alive to the necessity of speed I travelled without resting from Galveston to Washington after my arrival in the "La Peronne", for I was aware that Mr Donelson would immediately proceed to the same destination, and it was urgent that the acceptance of the preliminaries by Mexico should be communicated to this Government before his arrival there. We met at Houston on my return from seeing the President, and Mr. Donelson must have probably received the proclamation on his way up the Country. This correspondence confirms the impression I entertained and communicated to Mr Bankhead at the time, namely, that the suspension of hostilities by proclamation of this Government had disturbed the fulfilment of dangerous purposes against Mexico.

My share in these transactions has been at once exaggerated, and the source of considerable irritation and complaint in the correspondence here noticed. I shall merely say that I was acting in a sense of duty to Her Majesty's Government, willing to be helpful in effecting a peaceful settlement between Mexico and Texas upon terms of security, honour and advantage to both. But so far as I was entrusted with the execution of these wishes of Her Majesty's Government, it was incumbent upon me to take every proper precaution in my power, that their efforts in the behalf of one of the ostensible principals of this dispute should not facilitate the intentions of a third party to despoil Mexico of vast regions secured to her by treaty, to which Texas had not a shadow of just claim for Herself, and still less, if less were possible, to assign them to the United States. Contiguity between Mexico and the United States on that frontier will be attended with imminent danger to the stability of the first, and the desert nature of the country between the Rio Grande and Nueces make it almost vital to Mexico that those regions should continue to belong to her.

The safest separation between the Countries that circumstances now admit of, may probably be the course of the Nueces from Mouth to source, a right line from that point to the present South West limit of the United States, and thence continued along the present dividing Meridian.

I avail myself of this occasion to forward to Your Lordship the Copy of a Veto Message by General Houston on a Bill which passed both Houses of the Texian Congress at the beginning of his last Administration, extending the frontier of Texas to the Pacific in the parallel of the Mouth of the Rio Grande; which it may probably be one purpose of Mr Slidell's Mission to Mexico to attempt now for the United States. I have alluded to this subject in my former despatches, but have only recently succeeded in procuring a Copy of this Message.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

[Enclosure].⁶

Copy.

Charles Elliot.

Executive Department.

City of Austin.

Feby. 1st 1842.

To the Honourable the House of Representatives

Impressed as I am with a sense of duty and the true situation of the Country I cannot yield my assent to the Bill "to amend an "Act to define the Boundaries of the Republic of Texas". I trust your Honourable body will bear with me while I assign my reasons for the course which I feel compelled to adopt.

Texas has heretofore declared by the law of 1836 that her limits should [be] bounded on the West by the principal stream of the Rio Grande to it's source, thence due North to the 42d degree of latitude and the boundary line of the United States. This formed our limits with Mexico, and agreeably to this we have been recognized as independent by the United States, and also by those European Governments with which we have established relations. From these facts it seems to me that *until Texas has it in her power to exercise jurisdiction* it can be of no possible advantage to her, that she should assert any claim which would subject her to derision, or evince her wish to extend her claim to territory *by mere assumption of a right* which she *might* not be able to enforce. The recognized limits of Texas are greater than either her population or resources will enable her *at the time* to occupy.

To extend our limits according to the provisions of the Bill

⁶F. O., Texas, Vol. 16.

would embrace a region of Country larger than the United States of the North, and include two thirds of the Republic of Mexico. It would take in portions of the States of Tamaulipas, Coahuila, Durango, Sinaloa, and all of Chihuahua, New Mexico,—Sonora and upper and lower California. It is also but reasonable to calculate that the inhabitants of those vast regions would not number less than ten Millions. It would then appear curious to Nations in amity with us that a people destitute of means to meet their most pressing wants, and numbering less than one hundred thousand, should assume by a declaratory law that they have a right to govern a Country possessing a population of more than thirty to one. Thus far I am inclined to believe other nations would regard the Measure as visionary, or as a legislative jest, inasmuch as it would assume a right which it is utterly impossible to exercise.

But other considerations of a most grave and solemn character impress themselves on my mind.

The mediation of England has been invoked between the Governments of Texas and Mexico, the exercise of which has only been delayed in consequence of the want of the ratification and exchange of Treaties.

This difficulty will however soon cease to exist. So soon as the exchange of ratifications can take place at London there can be no doubt but that the British Minister at Mexico will be authorized to interpose on behalf of Texas; and unless some obstacle should intervene, we may at no distant period anticipate the most favourable result from the Mediation of that Power in our favour. Should the present Measure, however, be adopted and a proposition be submitted to the Mexican Government we cannot expect that this extraordinary assumption of right by Texas will be overlooked in the negotiation, but would present an insuperable barrier not only to our recognition by Mexico, but would annihilate every hope of an amicable adjustment of our differences. The British Minister would not be authorized to enter into any arrangement, but such as would present Texas with the limits avowed at the time of her recognition and declared by her law, Approved 19 December. 1836.

The promulgation of this Bill if it were to become a law, would

suspend all action on the part of Great Britain. To assume a right which we cannot exercise would only work evil, and could produce no salutary result. It would be useless in itself. Indeed a proposition of this character is calculated to irritate and arouse the indignation of every man within the limits of Mexico. And whilst we would thus pursue phantoms as profitless as the present is dangerous, our character for policy, sagacity, and forecast would suffer serious detriment.

I need not assure Your Honorable Body of the ardent desire which I entertain for peace and friendly intercourse with all Nations. So long as we are not on amicable terms with Mexico, so long we will suffer hindrance to our prosperity. The constant cry of invasion will be sounded, not only throughout Texas, but throughout all Nations to whom we are known; and while this is the case we may feel confident that emigration will be impeded, if not entirely prevented. From this source we are to draw both population and wealth, and no matter how desirable our soil and climate might be to foreigners, nor how great their anxiety to make our Country their home, it could certainly be no additional inducement to families that Texas should remain in hostile relations with Mexico; which might and would at all times render their situation one of unpleasant excitement, if not of danger.

We may regard Mexicans as we may think proper, but still they are men, and entertain ideas of Nationality and some sense of shame and injury. If then they do, the present project must have a powerful influence upon them. Indignity always inspires feelings of revenge. The very thought of suffering a partition of their Country will give them adhesion, and union may render them more formidable than we have found them in times past. It will at all events arouse their energies, incite them to the last effort, inflict great annoyance upon us, and withdraw the attention of our Citizens from the pursuits and profits of husbandry.

Texas only requires peace to make her truly prosperous and respectable. Peace will bring with it every advantage. All that is needful to secure individual wealth is well directed industry, and the policy that will permit the farmer and the mechanic to employ their labour in peace is the only policy that can establish our Country. Without peace, labour and industry, we must with

all the boundless natural advantages of Texas, remain comparatively poor and embarrassed.

The present moment is to my apprehension the most unfortunate of all others for the awakening of this subject.

Our fellow Citizen's taken at Santa Fe, if they still survive, are prisoners in the City of Mexico at the *mercy* of Mexicans. Every possible means at my command have been employed to obtain their release and restoration to their friends and Country. Should the proposed project reach the Mexican Capital in the character of a legislative act, no earthly interposition can secure their liberation, and I should deem it the most probable of all other events that they would be executed by order of the Authorities of the Country, and should they escape even this, I would apprehend their destruction by the populace. In a Country like Mexico, demagogues are never wanting to excite the fury and stimulate the bad passions of those to whose favour they seek to commend themselves.

I am therefore satisfied that if any measure could produce injury to Texas, and endanger the lives of our noble, generous and brave fellow Citizens, whose cruel captivity we now deplore, it would be the passage of this bill. Surely their circumstances invoke of the honourable Congress calm and careful deliberation.

(Signed) Sam Houston.

[Endorsed.] Inclosure in Captain Elliots Despatch No 16 to the Earl of Aberdeen.

Galveston Feb. 16th. 1846.

ELLIOT TO ABERDEEN⁷

No 17.

New Orleans.

March 4th. 1846.

My Lord,

I have the honour to transmit the "Texas Democrat" newspaper of the 20th Ultimo⁸ containing the particulars of the dissolution of the Government of the Republic of Texas.

⁷F. O., Texas, Vol. 16.

⁸"Extra" edition.

General Houston and Mr Rusk have been elected to the Senate of the United States.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen., K. T.

ELLIOT TO ABERDEEN⁹

No. 18.

New Orleans.

March 10th 1846.

My Lord,

I learn that the Government of the United States is taking up some light vessels at this port for the service of the force at Corpus Christi, and also that a small steamer hitherto employed as a passage vessel between that point and Galveston has been chartered by [the United States] for the same object. These indications dispose me to think that the Material at all events, will be re-embarked at Corpus Christi, and transported by sea to the Brassos and Norte. Detachments have been thrown forward in the direction of the Rio Grande, but we have not yet heard that the Head Quarters and Main body have moved.

Unless the American Government has some understanding with leading persons in Tamaulipas and the contiguous Mexican States, the advance of this small and enfeebled force still further from their resources and communications, and within the perfectly unquestionable limits of Mexico, may prove to be a dangerous movement. If they advance to any distance from their depôts on the Sea shore, they may be cut off without difficulty, and if they remain there during the ensuing hot weather the climate and exposure will be disastrous to them.

I avail myself of this opportunity to transmit a Texian Newspaper of the 3d Instant,¹⁰ containing some extracts from a paper published at Corpus Christi which merit Your Lordship's notice. It is no doubt probably that his tone is attributable to the dislike of the parties interested at Corpus Christi to lose the profits of the continuance of the force at that point; But be the motive what it may, nothing can be better founded than this exposure of the

⁹F. O., Texas, Vol. 16.

¹⁰*The Galveston News*, March 3, 1846.

worthlessness of these pretensions to the Country beyond the "Nueces"

Charles Elliot.

The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN¹¹

No 19.

New Orleans.

March 14th 1846.

My Lord,

I have the honour to transmit the Corpus Christi Gazette Extraordinary of the 8th Instant, containing the General orders issued by Brigadier General Z. Taylor respecting the immediate advance of the American force from that point, to the Rio Grande.

Charles Elliot

To The Right Honourable.

The Earl of Aberdeen, K. T.*

KENNEDY TO ABERDEEN¹²

No 4.

Her Majesty's Consulate.

Galveston. March. 16th 1846.

My Lord,

I have the honour to enclose herewith printed Copies of the last Public Address of President Jones, the Inaugural Address of the Governor of Texas, the first Message of the Governor,—and certain Newspaper Articles communicating political rumours, and intelligence of the Movements of the United States troops, heretofore stationed at Corpus Christi.¹³

Generals Houston and Rusk—(as was pronounced likely in my Despatch No 34 of the 8th of December, last) have been elected to the Senate of the United States, by the Legislature of Texas.

¹¹F. O., Texas, Vol. 16.

¹²F. O., Texas, Vol. 17. This is the last letter from Kennedy in Texas, containing anything of interest. On September 18, 1846, Kennedy left Texas on sick leave and a Mr. Lynn was appointed acting consul at Galveston. His correspondence is confined to the details of his office. Mr. Kennedy never returned to Texas, and formally gave up his consulate in 1850. Lynn's appointment to the place was confirmed May 18, 1850.

¹³All enclosures are unidentified newspaper cuttings.

There were 70 Votes for Rusk, and 69 for Houston. Ex-President Jones was a candidate, and not an unwilling one, as I am told, but his nomination was set aside in preliminary "Caucus."

Officers high in the Engineer Service of the United States have been employed in examining the Coast of Texas, with a view to its defence.—They have, it is said, reported favourably of connecting, by Canals, the lagoons, that fringe the Coast,—for the purpose of opening thereby a line of interior Navigation from the Sabine to the Rio Grande.

In reference to the Movement of the United States Troops to the Rio Grande, mentioned in Enclosure No 4, the "*Galveston Civilian*," of the 4th Instant, observes:—

"We have no idea that they," (the U. S. troops) "will be opposed in their present movement by the Mexican forces; nor do we think expectation of such an event is entertained by well-informed persons upon the frontier.

One result desired, and pretty confidently anticipated, from this Military movement, by the United States, is a declaration of independence by the North Eastern Provinces of Mexico, seconded by the influence of the Mexican General Arista.—After a brief term of probation, these most valuable Provinces are to be admitted to a participation of the advantages arising from an incorporation with the Federation of the North.—Such is the language of American politicians, and I cannot doubt its earnestness.

Whatever may be the issue of the Negotiations respecting Oregon, the United States seem resolved to possess themselves of Upper California. Large parties of armed settlers are proceeding thither from the Western and South Western States, and it is within my knowledge that a number of the most daring and intelligent Americans in Texas are making arrangements for journeying, with like purposes, to the same quarter.

In the meantime, it is hoped that Great Britain's devotion to—"peace, at any price,"—and the satisfaction with Mr Walker's *quasi*-liberal Tariff,¹⁴ will restrain her action until the United

¹⁴Robert John Walker, United States Senator from Mississippi, appointed secretary of the treasury by Polk, 1845. He was the author of the tariff of 1846, which was considered to have a free trade basis, Walker's principle being that no revenue should be raised by import duties, not directly needed to meet the expenses of the government.

States, are prepared, at all points, to contest her supremacy by land and sea.

William Kennedy.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN¹⁵

Private.

New Orleans.

March 27th 1846.

My Lord,

The subjoined letters from Galveston reached me this morning and I think it right to communicate them to Your Lordship. I should mention that Mr. W. D. Miller was General Houston's private Secretary and was with him at this place, when the Speech in question was delivered.

Charles Elliot.

The Right Honourable.

The Earl of Aberdeen, K. T.

JOHNSON TO ELLIOTT

To.

Captain Elliott.

Galveston March 24th 1846.

My Dear Sir,

At the request of General Houston I forward to you the Copy of a letter¹⁶ written by W. D. Miller, which was intended to be published in the "Galveston Civilian"

Signed.

R. D. Johnson

A.

ABERDEEN TO ELLIOT¹⁷

No 1.

Foreign Office.

April. 3d. 1846.

Sir,

I have received your Despatch No 13, of the 15th of February enclosing Copy of a Note addressed to you on the 4th of that Month by the Texian Secretary of State in reply to your Note of the 4th of January to him on the subject of the continued Treaty

¹⁵F. O., Texas, Vol. 16.

¹⁶This letter has already been inserted in its proper chronological order. See *The Quarterly*, XX, 167.

¹⁷F. O., Texas, 21.

engagements between Great Britain and Texas when the latter should have ceased to be an independent State, and also conveying a Copy of a Confidential instruction which you had addressed to Her Majesty's Consul at Galveston directing him to recommend to all British Subjects trading to Galveston to pay under protest whatever duties might be required of them subsequently to the Annexation of Texas to the United States.

With regard to this latter point Her Majesty's Government consider that the general declaration recommended in the first part of your instruction is quite sufficient for every useful purpose, and that the more detailed protest enjoined in the subsequent part of your Letter might, if constantly acted upon, be productive of inconvenience. I have therefore to desire that you will further confidentially instruct Mr Kennedy not to insist on such detailed protest being recorded on the part of British Traders; but to confine his recommendations to entering a general protest, if such protest should be found necessary. Her Majesty's Government do not desire to incur the risk of an unnecessary controversy with the United States on the legal existence, or otherwise, of the Treaty engagements with Texas, after Texas shall have been merged in the Federal Union, although they considered it desirable to enter their general caveat on that point with the government of Texas, prior to the extinction of the Republic.

Aberdeen.

Captain Elliot. R. N.

ABERDEEN TO ELLIOT¹⁸

No 2.

Foreign Office
April 3d. 1846.

Sir,

Your Despatch No 15 of the 16th of February (received at this Office on the 27th Ultimo) having announced to Her Majesty's Government that the Government of the Republic of Texas as an independent State would be dissolved on that day, I have to state to you that Her Majesty's Government consider your functions as Her Majesty's Chargé d'Affaires and Consul General to

¹⁸F. O., Texas, Vol. 21.

the Republick of Texas to have ceased by the fact of the dissolution of the independence of that State.

You will accordingly return to England as soon as you may find it convenient to do so, and you will bring with you the Archives and papers of your Mission, with the exception of such as you may deem it right to leave at Galveston for the benefit of Her Majesty's Consulate at that place.

Aberdeen.

Captain Elliot. R. N.

ELLIOT TO ABERDEEN¹⁹

No. 20.

New Orleans.

April 19 1846.

My Lord,

No latter tidings from the American force in Tamaulipas have reached this place than I have recently forwarded to Mr Pakenham, and requested him to transmit to Your Lordship; namely of the 1st Instant from the Brassos Santiago. Our last dates from Galveston are of the 15th Instant, but it is possible that the accounts from General Taylor's Head Quarters may in future come sooner, direct to this place or Pensacola, than by the way of Texas.

There was very tempestuous weather with heavy rains between the 2d and 6th of this month, as far to the Westward on the Coast of Texas as we have yet heard from, and if it extended to the Coast of Mexico as far as the Mouth of the Rio Grande (which is probable, being an equinoctial gale) mischance may have befallen some of the transports, ill provided with ground tackle, and insufficiently manned. At all events the difficulty of discharging and transporting the Material to General Taylor's position, about 24 Miles from Point Isabel, will have been much increased, and the advancing Mexican reinforcements will have had more time to arrive at Matamoros before the supplies from the Brassos Santiago had reached the American force. Their separation from their resources has certainly given the Mexicans, particularly if they are in the strength reported, a favourable chance of compelling the invading force to retire rapidly, if not of striking a still more decisive blow.

¹⁹F. O., Texas, 16.

The U. S. Vessel of War "Porpoise" sailed from Pensacola a few days since, ostensibly to Haiti, but it has occurred to me that her destination may have been Chagres, with instructions to the American Naval force in the Pacific.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²⁰

No. 21.

New Orleans.

April 21, 1846.

My Lord.

The accompanying intelligence²¹ from the American force in Tamaulipas reached this City late last night, and I forward it without delay in the hope of catching the Mail of the 1st Proximo from Boston.

Charles Elliot.

To the Right Honourable,

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²²

Secret.

New Orleans.

April 21. 1846.

My Lord,

In my despatches from Texas in the early part of 1845 I had the honour to communicate to Your Lordship the general scope of a strange and dangerous plot against Mexico which it was hoped to set on foot through the Government and Legislature of Texas.

A main feature of that scheme, Your Lordship will perhaps remember, was to induce the removed Indians on the Western frontier of the United States (Cherokee and other tribes) by bribes of land in the outlying Mexican regions legislatively appropriated by Texas, to press on into New Mexico; and thence into California; following up that movement with other emigration as circumstances and policy might suggest.

²⁰F. O., Texas, 16.

²¹*The New Orleans Daily Picayune*, April 21, 1846.

²²F. O., Texas, 16.

I have grounds for thinking that this part of the scheme has been strenuously urged at Washington, that it has found favour with the present administration, and that they are disposed to do what they can to carry it out. In fact it seems a treaty has been recently concluded between the United States Agents and the Camachee and kindred tribes guaranteeing to them large tracts of these Mexican regions. The motive for such a compact at present is transparent, and I need not suggest to Your Lordship that it will not be better respected than any other of these treaties when it suits the convenience of other Settlers to replace the Indians, and press them farther on into Mexico. Indeed I may remark incidentally that a resolution has been passed by the House of Representatives at Austin (March 31st) asserting the exclusive right of the State of Texas to all the soil within the limits of the Republic of Texas, refusing to recognize any Indian title in those regions, and denying the right of the United States to make any treaty of limits with the Indian tribes ranging therein, without the consent of the Government of the State of Texas.

It is probable that this resolution was aimed directly at the treaty in question, and by that means to compel some satisfactory settlement of the Texian debt in exchange for this spoliation of Mexican territory

It is a strong impression in the quarter from which I derive this information, that the leaders of the Southern democracy will endeavour to defeat the notice by sending it back to the House in such a form as will ensure its rejection there, and he believes that a main motive of their desire for the adjustment of the present difficulty²³ with Great Britain is to be able to turn with more safety and effect to the dismemberment of Mexico. The person who has furnished me this information has afforded me proofs of fidelity at various times during my Service in Texas, and has good means of knowing what is really intended respecting Mexico, by prominent personages at Washington.

Charles Elliot.

To the Right Honourable.

The Earl of Aberdeen, K. T.

²³The controversy over the Oregon boundary was thought at this time to threaten war between the United States and Great Britain.

ELLIOT TO ABERDEEN²⁴

No. 22.

New Orleans.

April. 25th 1846.

My Lord,

I have the honour to acquaint Your Lordship that a Bill is pending at Austin entitled "An Act to ascertain and establish the public debt, and to define how the same is to be paid."

It had not passed at the last accounts but I think it may be convenient at once to report the principles on which it is proposed to make adjustments, and generally all that has yet transpired concerning the disposition of the public lands claimed by the Republic of Texas.

With that view I have the honour to forward a newspaper of yesterday's date²⁵ in which the subject is succinctly exhibited, and I would also submit to Your Lordship's notice, in the same newspaper, a letter written by General James Hamilton to General Burleson of Texas.

I have no knowledge of the nature of the communication of the Texian Commissioners to Her Majesty's Government during the Negotiations in England, preceding the treaty of 1840, or of any subsequent communications from them in Your Lordship's possession, but I conclude that the point of possible Annexation to the United States must have received attention at that time. There could hardly have been any failure of earnest assurances by the Commissioners, of the capacity and steady purpose of Texas to maintain her independence, and it is possible there may be much similarity between the argumentation to Her Majesty's Government in 1840, in support of the acknowledgment, and to the people of Texas in 1844, in recommendation of the sacrifice of that independence.

I think Your Lordship will also pause upon the paragraph respecting the difficulties which might have ensued respecting Mexican obligations to British Subjects, in part security for which, as is correctly stated by General Hamilton, many millions of acres of the domain claimed by Texas had been mortgaged to the Mexican bond holders. But the acknowledgment of the independence

²⁴F. O., Texas, Vol. 16.

²⁵*The New Orleans Commercial Bulletin*, April 24, 1846.

of Texas by Great Britain was simply and singly the admission of what was solemnly declared by Texas to be a fact, and which it was believed upon the faith of that declaration would remain a fact; namely, that Texas had, and would preserve a Sovereign, separate, and independent existence. The limits of Texas were not a matter of question, and the acknowledgment of independence had no connexion with, or bearing upon the public debt of Mexico to British Subjects, and the inherent liability of all the territory constituting Mexico at the period of the contract of those debts, to a fair share of the responsibility for them. If every State in Mexico, one after the other, had declared their independence, the public debt of Mexico would still remain to be adjusted, and with the debt, the justice and necessity that each Member should assume it's proportion of the charge.

It is altogether shadowy to hint that when Texas agreed to hold herself responsible for a certain amount of the Mexican debt, if Mexico consented to acknowledge her independence within a specified period, that Great Britain by being a party to that arrangement consented to forego all claim upon the territory claimed by Texas (four fifths of which have never been in her possession) if Mexico did not acknowledge the independence within that period. As I understand that subject, that was a specific agreement in the event of the occurrence of a given state of things, a definite settlement of the proposition for which Texas was to be responsible, in that state of things. If it did not obtain matters reverted to their former attitude.

That agreement too was necessarily made with reference to the territory in the actual occupation of the Texians, for I am of course perfectly aware that Her Majesty's Government never attached any weight to the extravagant territorial pretensions of the Republic of Texas. The legislative branches of that Government involved, as Your Lordship knows, the whole territory to the line of the Pacific, between the parallels of the Mouth of the Rio Grande and the 42 of North Latitude. It can hardly be pretended in any quarter that the approval of their President would have completed a title to those limits, yet in point of fact there is no better title to the immense regions now claimed, than one word more, and another signature. Texas might as justly

have annexed the Country to the Isthmus of Darien as to the Rio Grande and upwards to 42 N.; and the pretensions of the United States founded upon the law of Texas, or upon any other pretext, to those regions, followed by force, are undisguisable violations of treaty, and invasion of the Mexican territory

The sacrifices of the separate existence, and independence of Texas are sacrifices of those particular things by the people in the actual occupation of a particular territory, not a warrant for the invasion and further spoliation of Mexico by another power, and still less a discharge of the obligations and liens upon territory as completely free of control by Texas as the Coast of California. General Houston [Hamilton?] in his letter appears to have reasoned for the benefit of the Creditors of the Republic of Texas respecting debts contracted by that Republic, on the doctrine that the existing Sovereignty is responsible for the debts of the former.

That no doubt is a sound principle, but it may be remarked that there is a difference between the former and inherent liabilities of the territory constituting Texas, and the liabilities contracted by the Government of that Republic. Both the first and the last remain to be provided for, but the last, so far as the people of Texas are concerned, are subject to the effect of an express stipulation between the United States and the Republic of Texas, that the former shall under no pretext be liable for them. The contract between these parties is, that Texas shall keep the debts of the Republic, and that the United States shall leave Texas her domain, necessarily not defining the limits of that domain, which the United States had no more title or power to do than to define the domain of Guatemala. The United States, also, with the permission of Texas, reserved the exclusive right of making and concluding treaties of limits.

Her Majesty's Government are aware that Mexico would never have concluded a definitive treaty of peace with Texas, unless Texas had agreed in the final treaty to such money stipulations as would have partially compensated Mexico for being left with the whole burden of obligations contracted by the Confederacy of which Texas formed part of the domain.

Charles Elliot.

To The Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO ABERDEEN²⁶

No. 23.

New Orleans.

May 1st 1846.

My Lord,

I have the honour to acknowledge the receipt of Your Lordship's despatches No 1 and 2 of this year.

The inclosure is the Copy of a letter which I have written to Mr Consul Kennedy in pursuance of the instructions in Your Lordship's despatch No 1.

I proceed to New York this evening and shall repair to England from thence with all convenient dispatch.

Charles Elliot.

To the Right Honourable.

The Earl of Aberdeen, K. T.

ELLIOT TO KENNEDY²⁷

[Enclosure.].

Copy.

Charles Elliot.

New Orleans.

Confidential.

May 1. 1846.

Sir,

Having reference to the Confidential letter which I left you on the 16th February last, I have now to acquaint you that I have had the honour to receive a despatch from The Earl of Aberdeen dated on the 3d Ultimo, directing me to instruct you, confidentially, to confine your advice to British Subjects at your Consulate who may consult you upon the subject of payment of duties, to the general declaration recommended in the first part of my instructions, and to omit any advice to make the more detailed protest recommended in the following part of those instructions.

To prevent misconception I recite below the portion of my former instructions to which you are now directed to confine yourself in any advice that may be sought of you upon this point, by British Subjects trading at your Consulate.

"If he" (the Master) "should find that he is permitted to enter under any other Authority than that of some existing revenue or

²⁶F. O., Texas, Vol. 16. This was the last letter to Aberdeen written by Elliot while in America, as chargé d'affaires to Texas.

²⁷F. O., Texas, Vol. 16.

navigation law of the Republic of Texas you will advise him to state that he had arrived here to trade under the treaty of Commerce and Navigation between Her Majesty The Queen of Great Britain and Ireland and the Republic of Texas, signed at London Novr. 13th. 1840, and whereof ratifications were exchanged at London June 28th 1842, that he claims the rights, privileges, liberties, favours, immunities, and exemptions secured to H. M. Subjects trading in Texas under that treaty, and enters protest against all proceedings taken, or to be taken contrary thereto, as respects the Ship, of which he is Master and the goods of her lading."

(Signed) Charles Elliot.

[Endorsed] Inclosure in Captain Elliot's despatch to the Earl of Aberdeen No. 23.

New Orleans, May 1, 1846.

To William Kennedy Esquire.

H. B. M. Consul.

Galveston

ELLIOT TO ABERDEEN²⁸

36 Wilton Crescent

June 18th. 1846.

My Lord,

I have the honour to report that I arrived here on the 16th Instant.

Deprived of my post by circumstances in Your Lordship's knowledge, I beg to express my readiness, and I hope I may add my earnest desire for early re-employment, for I have no fortune, and a large family entirely dependant upon me. So far as my Services and career may properly derive advantage from a very kind as well as just estimation by the Head of the Department under which I have had the honour to serve for the last 12 years, I certainly submit this application to Your Lordship with feelings of perfect confidence.

Charles Elliott.

To the Right Honourable.

The Earl of Aberdeen, K. T.

²⁸F. O., Texas, Vol. 16.

KENNEDY TO PALMERSTON²⁹*Private.*

24. Rue de Villiers
Neuilly, Paris.
March 27th. 1847.

My Lord,

I have the honor to submit to your Lordship the following extracts from a communication which I have recently received from a Correspondent at Galveston. The writer, is a native of North Carolina—of the Democratic party—and a professor of liberal opinions in regard to trade. He has filled situations of trust in Texas, and is, I doubt not, a faithful echo of persons well-informed, with respect to the Matters to which he adverts.—As to the war with Mexico, he observes.

. . . “I do not believe we shall end the War short of the occupation of the City of Mexico by our troops, or of clearly manifesting that its occupancy is, beyond all doubt, within our power. When we do this, we shall be enabled to demand and secure a peace on such terms as will be both honourable and just—And not before.—In making peace, I presume the Government will insist on, and exact, full indemnification for the expenses of the war, and that the compensation will be in territory South of Oregon and the Rio Grande.”

He thus notices the prospects of a liberal Commercial policy in Congress.

. . . “The factious party spirit—to call it by no more opprobrious a name—Manifested by prominent Members of the Whig party in the United States, relative to the war, is discreditable to us as a Nation.—A spirit almost as censurable, is also manifested by a portion of the Democratic party in opposing the levying of certain Moderate duties on foreign Articles, (now admitted free of duties) until the establishment of peace. You are

²⁹F. O., America, Vol. 476. After the Texan Republic ceased to exist, British consular correspondence from the state was classified under F. O. America. This correspondence has been examined for further material on the Texan Republic, but the letter here printed is the only one found. It is to be noted that Kennedy is here writing to Palmerston, who has replaced Aberdeen at the foreign office, so that Kennedy's implied reflection on Aberdeen's policy is not in itself proof that Kennedy had desired Great Britain to pursue a more vigorous policy in the years 1841-1846. Nevertheless, it is probably true that Kennedy always regarded Aberdeen's policy in Texas as over cautious.

aware of my warm advocacy, as an American politician, of the freest possible commercial intercourse of my Country with the world. One of the most essential differences, as you know, of the two great parties in this Country is in reference to the wisdom and policy of Government in this respect. The Manufacturers of the United States have been, and still are, attempting to exercise the same power and control in causing to be protected by Government their interests that the landholders in Great Britain have so long profited by, in the protection afforded them by the existence of your Corn Laws. Necessity, added to the experience of an enlightened public, has, at length, caused this principle to be abolished in England. I ardently hope its downfall is permanent, as the new System not only affords greater benefits to much the largest number of British Subjects, but to Britain herself as a nation, and to the civilized World generally,—especially the United States, by the sale of her surplus bread stuffs etc.—Indeed one of the principal causes of our success in being enabled to adopt a system of *ad valorem* revenue duties, was the enactment of your liberal Tariff. Those in this Country with whom I concur in political opinion have never since 1817 until the last Congress been enabled to pass a Tariff for Revenue purposes without admitting the principle of fostering, by protection, the interests of our Manufacturers.—And—I regret to say—that it is very questionable whether that Tariff, will be sustained by a Majority of the Nation at the next Presidential election. The recent Whig Majorities in the large and influential States of Pennsylvania and New York give the advocates of untrammelled intercourse cause for apprehension and alarm.—I am certain that nothing will be left undone by the Manufacturers which can be accomplished by them to fix upon the United States, as a permanent system, this unjust taxation—a taxation which affords a bounty to one part of the community and entails an impoverishing result upon the other.”

So much for my correspondent: for my own part, I have never regarded the existing Tariff of the United States as any thing more than a bait for the Calhoun Section and—above all—as a sop to quiet Great Britain during the Annexation of Texas and the dismemberment of Mexico. I have officially recorded, for the

satisfaction of my conscience, my conviction that the policy which *reconciled* the Union to the acquisition of Texas was the extension of the home-market—or what may be termed the home-market—and an Anti-European Tariff. We might have prevented Annexation—such at least is my opinion—without a war—not having done so, we must prepare for its consequences.—Aggression against British North America it seems not too much to anticipate as among probable Contingencies, should the general state of affairs be favourable, and an American Army amounting to fifty or sixty thousand men return home flushed with the subjugation of Mexico.

At the period of the Annexation of Texas, it occurred to me that European Powers might some day take advantage of the precedent. From what I now see, it seems to me perfectly clear that the four great Continental States will act more closely than heretofore upon a similar System.—Even at present, how few of the Minor States have more than a *quasi* independent existence!—. Policy propels, and *necessity may* propel, some of these States towards the Shores of the Mediterranean, and *there* English interests demand vigilance as keen and action yet more direct and peremptory than even in North America. I venture to advert to these points with a full recollection of Your Lordship's Statesmanship in 1841—which had then—and has, (more intelligently) now, the cordial admiration of one whose judgment may be of little weight but is, at all events, unbiassed and independent. In opposition to prevailing opinion at the time, my regret was that more had not been done in the same direction. Why should not we attach the Arabs to our Standard—looking to the inevitable war—and by Colonizing thinly settled islands relieve our people and, ultimately, perhaps, enlarge the basis of the domestic empire?

But I crave pardon for placing these disjointed thoughts before Your Lordship—the emanation of Moments which sickness rendered solitary.

William Kennedy.

Viscount Palmerston. G, C. B.

BOOK REVIEWS AND NOTICES

José de Gálvez, Visitor-General of New Spain, 1765-1771, by Herbert Ingraham Priestley. University of California Publications in History, H. Morse Stephens and Herbert E. Bolton, Editors. University of California Press, Berkeley, 1916. Pp. xi, 449.

Aside from being an account of the inspection (*visita*) of New Spain and her northern provinces by José de Gálvez from 1765 to 1771, Mr. Priestley's book is a veritable encyclopedia of Spanish colonial administration. It is quite the most substantial and massive thing that has been done in this subject up to the present, and is made possible by the unrivaled facilities which the University of California enjoys for the utilization of the documents existing in Spain, not only in the local field but in the larger and more closely related one of Spanish colonial history. Although the activities of Gálvez as described in this volume are chiefly concerned with New Spain and its northern frontier provinces, the institutions and practices which are described so clearly and in such an interesting manner were characteristic of the entire colonial empire of Spain from Peru to California, and will be of interest to all students of Latin-American history and government in Spain, Mexico and South America, as well as in the United States. This book is of such merit, and of such consequence are the problems which it discusses, that the volume should be translated into Spanish for the more general convenience of our Spanish-speaking contemporaries.

Although the main contribution of the work is to be found from Chapters IV to IX, inclusive, for therein the visitation itself is described from documentary sources hitherto unused, the first three chapters, as well as the last, are of great value to the all-too-often confused student of Spanish colonial institutions. In his *Introduction*, Mr. Priestley gives his work a quality of completeness by sketching the life of Gálvez, supplying the earlier and later details of his career which are not identified with his six years of service in New Spain.

The first three chapters serve as introductory to the general

subject of the visitation. The first gives a general survey of the Spanish empire at the time of the Bourbons, illustrating the need of reform, financial and administrative, resulting from the rack and ruin inflicted by the incompetence and extravagance of the Hapsburgs. This is concerned with the leading motive of the visitation: to bring about more efficiency of administration and more revenue. This chapter contains some very useful data compiled from a report of the *Junta Comercial* in 1765 on the weakness of the commercial system, with suggestions for reform. In his second chapter Mr. Priestley gives a summary view of the government of New Spain and its relation to and administration from Spain. This chapter is, in effect, a well-connected series of definitions, accompanied by brief historical summaries, of the political, judicial, ecclesiastical, economic and financial institutions of New Spain. The third chapter furnishes a history of the institution and practice of the visitation, showing its origin in Spain and its subsequent employment in New Spain from 1526 onward. In these first three chapters original sources are generously used whenever available, but it may be noted that the author, like other modern writers and students of Spanish colonial history, has felt justified in making frequent use of the works of H. H. Bancroft and Arthur Helps.

It is really in the five following chapters that the real contribution is made, utilizing chiefly the documents recently obtained from Spain. So well have these sources been used that in no part of this section can the criticism of overdocumentation be made (and seldom is it made except by those who are unable or indisposed to make use of original documents). The treatment of the tobacco monopoly and its administration is original. We note also as typical the struggles which arose between a viceroy, who did not wish to be disturbed in his pleasant and profitable state of isolation, and a zealous reformer, keen to bring the government to the highest point of efficiency. This is an old story in Spain's colonies. In the same manner we are instructed by the data furnished us on the administration of the customs at Vera Cruz, the amount of smuggling done not only by foreigners but by the faithful subjects of the king of Spain. Here we see in full swing the official corruption which was the ruin of

the Spanish colonial empire and is still the curse of Spanish government.

Three chapters deal with phases of the frontier problem. The sixth shows that Gálvez played an important part "in planning and executing the coup" connected with the expulsion of the Jesuits. In describing the revolutions and revolts which followed and the reign of terror initiated by Gálvez, Mr. Priestley admits that his hero had many defects, and among them were over-severity and mercilessness. The seventh chapter describes Gálvez's efforts to pacify the Indians and to bring about the settlement of the northern frontier. In connection with the California expedition of 1769, it is refreshing to note the absence of the customary beatification of Fr. Junipero Serra. Mr. Priestley credits Gálvez with being the initiator of this plan to guarantee and insure the security of the northern frontier, and he summarizes this topic with the assertion that California constitutes a lasting monument to Gálvez in the western hemisphere. The next chapter discusses the Indian problem further and particularly the Sonora expedition. Gálvez is compelled to leave his work incomplete because of illness and insanity. A brief outline of the plan of intendancies as worked out by Gálvez follows, together with a description of the *comandancia general*. In the ninth, and the concluding chapter dealing with the visitation occurs an account of Gálvez's efforts to reform the customs at Acapulco, and the story ends with the return of the visitor to Spain. Throughout the volume we may note that Gálvez was not given a free hand in his work in New Spain; obstacles were continually placed in his way by the reactionary element in Mexico and in Spain, and among the latter may be included the highest officials of the government. The besetting evil which was continually gnawing at the vitals of the whole colonial system was graft, and in this participated officials of high and low estate: those who enjoyed the confidence of the government as well as those who were under suspicion.

The last chapter, and for the purposes of the student of Spanish colonization probably the most useful, is a compendium of colonial finance, covering the period immediately preceding as well as following the visitation of Gálvez. We are shown the

amount and extent of the revenue derived from precious metals down to 1789, and the author has indeed performed a service in placing this data before us in readable and accessible form, although it is to be noted that he is indebted to the admirable work of Fonseca y Urrutia for much of the matter presented. The perplexing matter of tribute is dealt with, salable offices, *medias anatas*, excises, tithes, and, indeed, thirty different forms of colonial revenue are described.

The book is well edited. It contains an adequate bibliography of manuscript and printed sources and an appendix, giving a translation of the most important original document used in the book: the instructions issued to Gálvez by the Spanish monarch in 1765. The book contains six maps and two illustrations. Notable among the former is a Jesuit Map of California of 1757, and a map of the proposed Intendancy of California of 1770.

CHARLES H. CUNNINGHAM.

The first number of the *Louisiana Historical Quarterly* contains translations by Mr. Gilbert Pemberton of two rare pamphlets in the library of Mr. Gaspar Cusachs, president of the Louisiana Historical Society: *Informe que se dio al Exmo. Sr. Presidente de la Republica Mejicana, sobre limites de la Provincia de Tejas, con la de la Luisiana*, prepared by Fr. José Maria de Jesus Puelles of the College of our Lady of Guadalupe, Zacatecas, November 30, 1827, and *Diario de las operaciones de la expedicion contra la Plaza de Panzacola concluida por las Armas de S. M. Católica, baxo las ordenes del Mariscal de Campo D. Bernado de Galvez*, October 16, 1780, to May 11, 1781.

The *Tennessee Historical Magazine*, III, 61-69 and 134-162, prints a number of letters from A. J. Donelson, James K. Polk, Andrew Jackson, Sam Houston, and others, which deal with the question of annexation of Texas to the United States, 1844-45.

Horace B. Little describes the prison camp at Tyler, Texas, containing five or six thousand Federal prisoners, as it appeared

about April, 1864, and gives an account of his escape in August of that year in *Indiana Magazine of History*, XIII, 42-55.

The Texas History Teachers' Bulletin, V, No. 3 (May 15, 1917), prints from the originals in the Austin Papers three letters written by Stephen F. Austin that illustrate some of the difficulties he as empresario experienced in dealing with his colonists. The letters are dated April 4 and 7, 1829, and April 16, 1830. An index to Volumes I-V of the *Texas History Teachers' Bulletin* is printed in this number.

A brief article on the Bohemians in Texas, by Rev. Kenneth D. Miller, appeared in the *Bohemian Review*, May, 1917. It was republished by the *Austin Statesman*, May 23, 1917.

Under the title "Looking About," A. E. Winship tells in the *Journal of Education*, May 24, 1917, what he saw of schools, teachers, irrigation, business and enterprises in the Brownsville country during a visit in March of this year.

What was done in the line of historical work in Texas and the adjoining States during 1916 is set forth in an article by Donald L. McMurry, entitled "Recent historical activities in the South and Trans-Mississippi Southwest" and published in the *Mississippi Valley Historical Review*, III, 478-512.

The John P. Branch Historical Papers of Randolph-Macon College, IV, 373-84, contain a series of letters from Thomas Ritchie, editor of the *Richmond Enquirer*, to Thomas Green, dated in 1836, 1837, and 1841, which deal with the desirability of annexing Texas to the United States.

The Brenham *Banner-Press*, on September 12, 1917, issued an Industrial Edition of forty-eight pages. The usual write-ups of the industries and commercial, social, religious and educational activities of the town are accompanied by two reprints of considerable historical value. An account of the New Mexico Campaign of 1861, by Mr. W. T. Wroe, is copied from the *La Grange Journal*. The Centennial Address of Dr. Wm. Carey Crane, delivered at Brenham, July 4, 1876, is reprinted from a pamphlet that is now rare. The address contains much local history. It is to be issued in pamphlet form.

NEWS ITEMS

The California Historical Survey Commission, created as a State department in 1915, has already accomplished excellent results. The survey of the county archives has been completed and will be made ready for the press during the next few months. Besides the archives much valuable material has been discovered in private collections.

Two acts were passed at the last session of the California Legislature dealing with the work of the Commission. By one an appropriation of \$12,500 was made to cover the expenses of the Commission for the next biennium. By the other act the powers and duties of the Commission were enlarged, provisions being made for the publication of the results of the survey and also extending its work to include an investigation of the history of the physical characteristics of the Franciscan missions of California. At a recent meeting in Los Angeles the Commission placed the general supervision of this work in the hands of Rev. Joseph M. Gleason of Palo Alto. For that phase of its work the Commission has tentatively set aside the sum of \$2500. The members of the Commission are: Hon. John F. Davis, Chairman; Professor Herbert E. Bolton; Mr. James M. Gwinn, and Mr. Owen C. Coy, Secretary.

Dr. Charles W. Hackett, assistant editor of historical publications at the University of California, has recently been appointed to carry on the work begun by the late Dr. Ad. F. Bandelier for the Carnegie Institution of Washington. At the time of his death Dr. Bandelier had gathered in Seville and Mexico several volumes of manuscript materials relating to the history of the Southwest, and to that of New Mexico in particular, during the sixteenth, seventeenth and eighteenth centuries. These manuscripts will be translated and edited, with introductions and annotations, and will be published by the Carnegie Institution.

Due to war conditions and the impossibility of obtaining passports to Spain this year, the two Native Sons traveling fellowships in Pacific Coast history, each of the value of \$1500, have

been temporarily discontinued at the University of California. This year, however, four resident Native Sons fellows have been appointed to catalogue and edit materials already collected by former traveling fellows.

Mr. Roscoe R. Hill, whose *Descriptive Catalogue of the Documents relating to the History of the United States in the Papeles Procedentes de Cuba deposited in the Archivo General de Indias at Seville* was published recently by the Carnegie Institution of Washington, has resigned as head of the history department at the University of New Mexico in order to go into administrative work.

Professor Chapman has arranged with the management of the *Grizzly Bear Magazine* to publish in that magazine such of the term papers of his class in California history as show research and fair literary style. Thus far the following items have appeared: *Historical and reminiscent articles in the first twenty volumes of the Grizzly Bear Magazine*, a bibliographical article by Miss Leslie Underhill (April, 1917); *The hide and tallow trade in Alta California (to 1845 inclusive)*, by Mr. Theodore Gray (July, 1917); *The early history of Sacramento*, by Miss Doris Bepler (September, 1917); and the first paper in a series of four, under the general title *History of mining in California*, this being entitled *An Account of the '49 movement* (September, 1917). Henceforth, one or more articles will appear in every number of the periodical. All are edited and provided with an introduction by Professor Chapman.

Dr. Herbert I. Priestley assistant curator of the Bancroft Library at the University of California since 1912, has been appointed also Assistant Professor of History in the Latin-American field, in which he is conducting seminars and lectures.

Professor William R. Manning of the University of Texas is absent on leave for the year 1917-1918. He is engaged in editing the diplomatic correspondence between the United States and all the Latin-American countries from 1820 to 1830. The

work will be published by the International Law Section of the Carnegie Endowment at Washington, D. C.

Dr. William Edward Dunn of the University of Texas will spend the year in Mexico City supervising the collection of historical manuscripts for the University bearing on Texas and the Southwest. The work was interrupted some years ago by the revolution.

Dr. Charles H. Cunningham, who has studied several years in the Archives of the Indies at Seville and who has traveled extensively in South America, is carrying on a part of the work of Professors Manning and Dunn at the University of Texas.

Mr. E. W. Winkler's collection of *Texas Political Party Platforms* will shortly be issued as a bulletin of the University of Texas.

Mrs. Mollie Macgill Rosenberg, widow of the late Henry Rosenberg, widely known philanthropist, died at her home in Galveston, May 29, 1917. The *News* of May 30 has a sketch of her life.

Robert Jenkins Onderdonk, an artist of National fame, who had been a resident of San Antonio for the past thirty-nine years, died at his home in that city, July 2, 1917. A sketch of his life and work, with photograph, was published in the *Express* of July 3d.

David Wendel Spence, dean of engineering in the A. and M. College of Texas, died at Galveston, June 27, 1917. The *Austin Statesman* of June 29 contains a brief sketch of his life.

THE QUARTERLY

OF THE

TEXAS STATE HISTORICAL ASSOCIATION

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XXI

JANUARY, 1918

No. 3

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CONTENTS

THE GOVERNMENT OF AUSTIN'S COLONY, 1821-1831 - Eugene C. Barker	- - 223
THE RESIDENCIA IN THE SPANISH COLONIES - Charles H. Cunningham	- - 253
THE POWERS OF THE COMMANDER OF THE CONFEDERATE TRANS-MISSISSIPPI DEPARTMENT - Florence Elizabeth Holladay	- - 279
MINUTES OF THE AYUNTAMIENTO OF SAN FELIPE DE AUSTIN, 1828-1832, I - - - - Edited by Eugene C. Barker	- - 299
BOOK REVIEWS AND NOTICES: Wright, <i>The Early History of Cuba</i> , 1492-1586 - - - - -	- - 327
NEWS ITEMS - - - - -	- - 330

PUBLISHED QUARTERLY BY

THE TEXAS STATE HISTORICAL ASSOCIATION

AUSTIN, TEXAS

Entered at the post-office, Austin, Texas, as second-class mail matter

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The Association was organized March 2, 1897. The annual dues are two dollars. THE QUARTERLY is sent free to all members.

Contributions to THE QUARTERLY and correspondence relative to historical material should be addressed to Eugene C. Barker, Austin, Texas, or to Herbert E. Bolton, Berkeley, California.

Other correspondence may be addressed to *The Texas State Historical Association*, Austin, Texas.

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XXI

JANUARY, 1918

No. 3

The publication committee and the editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

THE GOVERNMENT OF AUSTIN'S COLONY, 1821-1831

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1. *The Eastern Interior Provinces, 1820*

In 1820, when Moses Austin made his memorable journey to ask permission to settle three hundred families in the Spanish province of Texas, the territory was one of the Eastern Interior Provinces (*Provincias Internas de Oriente*), and it is therefore necessary to notice briefly the political history of this administrative division of New Spain. By a royal order of August 22, 1776, all the northern provinces of Mexico had been separated from the jurisdiction of the viceroy and placed under the authority of a commander who was responsible directly to the crown. The division thus created was the *Provincias Internas*. Another royal order of May 30, 1804, directed the division of this into the Eastern and Western Provinces, but was not carried into effect. It was renewed in 1811 and was finally effected in 1813, when General Joaquin de Arredondo became the first Commandant of the Eastern Interior Provinces. Texas, Coahuila, Nuevo Leon, and Santander or Tamaulipas constituted this district.¹ The commandant was both civil and military head of the provinces, and was independent of the viceroy, though the financial administra-

¹This information is derived mainly from the royal orders of November 22, 1792, and May 30 1804, and an extract of an order of the Regency quoted by Salcedo in a letter to Minister of War, November 22, 1812, in the Bexar Archives. Bancroft, H. H., *North Mexican States and Texas*, I, 636-45, and II, 27, supplements the documents.

tion was subordinate to the intendent of San Luis Potosí.² Each province had its own governor and military commandant and was subdivided, or divisible, into departments, districts (*partidos*), and municipalities. Texas constituted one department, and in 1820 contained but two organized municipalities, Bexar and La Bahia, the present Goliad. The government of a municipality, which included not only the town but much of the surrounding country, was an ayuntamiento.

Prior to 1820 there does not appear to have been anything that might be considered a federal or inter-provincial legislative body, but in the summer of that year Arredondo received news of the King's renewed acceptance of the Constitution of 1812, with orders to have his provinces elect deputies to the Spanish Córtes and representatives to a provincial deputation. The Eastern Provinces were allowed two deputies in the Córtes, and representation in the provincial assembly was to be based on population as shown by the census of 1818. A "*junta preparatorio*," consisting of eight civil and ecclesiastical officials was to divide the provinces into electoral districts and apportion representation.³

On July 6 this *junta* met at Monterey. It recognized Bexar as the capital of Texas, and instructed the Governor to have an elector chosen to come to Monterey and join those of other districts in electing deputies to the Córtes and to the provincial deputation.⁴ The local procedure was somewhat elaborate. First, Bexar chose twenty-one electors and La Bahia eleven. The Bexar delegation then selected two representatives and the La Bahia electors one; and on September 10 these three met at Bexar and selected Juan Manuel Sambrano as the provincial elector.⁵ On October 1 the electoral *junta* of the four provinces under Arredondo's command met at Monterey and elected deputies to the Córtes. The next day it elected the provincial deputation, composed of seven delegates—two each for Coahuila, Nuevo Leon,

²This statement is based on correspondence of 1820 in the Bexar Archives between Arredondo and the intendency of San Luis Potosí.

³*Instruccion á la cual deberán celebrarse en las provincias de Ultramar las elecciones de Diputados de Córtes.* . . . Nacogdoches Archives, Texas State Library.

⁴Arredondo to Martinez, August 2, 1820. Bexar.

⁵*Ibid.*; and local election returns of Bexar and La Bahia in Bexar Archives.

and Santander, and one for Texas. The Texas delegate was Ambrosio Maria de Aldasoro, a merchant of Monterey. The commandant general presided over the deputation, and the intendent was a member, but was not present.⁷

The provincial deputation was a creation of the Constitution of 1812 (articles 324-37). Its duty was declared to be, in general, to promote the prosperity of the province. More in detail, it was to apportion and approve the levy of local taxes; establish ayuntamientos according to law; take the census; encourage the education of the young; and to promote agriculture, industry, and commerce. Its sessions were limited to ninety days during the year, and half the members retired annually.⁸ It was to this body that Arredondo referred Moses Austin's application for a permit to introduce three hundred families into Texas; and on January 17, 1821, it recommended that the petition be approved.

2. *Early Local Government in Austin's Colony*

(1) *Powers granted to Stephen F. Austin.*—In August, 1821, after the death of Moses Austin, Martinez recognized Stephen F. Austin as his father's successor, authorized him to explore the country and select the region which he wished to colonize, and approved the terms which he proposed for the distribution of land to settlers.⁹ Since the region selected by Austin would be a wilderness, uninhabited and without political organization, and since he himself would have no means of extending administration to it at once, the Governor made it plain that, for a time, Austin must be responsible for the local government. "You will cause them all [the colonists] to understand that until the government organizes the authority which is to govern them and administer justice, they must be governed by and subordinate to you."¹⁰ Early in 1822 Austin found it necessary to visit the City of Mexico to get a confirmation of his permit, and the imperial

⁷An *Aviso*, or printed notice, issued by the electoral *junta* on October 3. Bexar Archives.

⁸Dublan and Lozano, *Legislacion Mexicana*, I, 375-376.

⁹Martinez to Austin, August 14, 1821, in Wooten, editor, *A Comprehensive History of Texas*, I, 472; same to same, August 19, Records of the General Land Office, Vol. 54, p. 68.

¹⁰Same to same, August 24, 1821, in *A Comprehensive History of Texas*, I, 472.

decree of February 18, 1823, which granted this, provided that he should form his colonists into militia companies; and, until the government of the settlement was organized, charged him with the administration of justice.¹¹ This was confirmed on April 14 by the supreme executive power which succeeded Iturbide.¹² At Monterey, in May, 1823, on his way home, Austin sought a more particular definition of his position. Did his judicial authority extend to the punishment of capital crimes, or only to the arrest of the criminal for trial at Bexar; and how was the cost of justice to be met? Did he have authority to make war on the Indians? What was to be his rank in the national militia? General Felipe de la Garza, who had succeeded Arredondo as Commandant of the Eastern Interior Provinces, referred Austin's letter to the provincial deputation, and, with its advice, replied on June 16. In all capital case he was to refer the process (record of the trial) and the verdict to the superior government, and while awaiting its report was to work the prisoner on the public roads. He had full authority to wage war on the Indians; and was to be lieutenant-colonel of militia.¹³ "In short," said Austin of himself, "the provincial deputation decreed that the should preserve good order, and govern the colony in all civil, judicial, and military matters, according to the best of his abilities, and as justice might require, until the government was otherwise organized and copies of laws were furnished, rendering to the Governor of Texas an account of his acts, or of any important event that might occur, and being himself subject to him and the commander-general. The local government was thus committed to him with the most extensive powers, but without any copies of laws, or specific instructions whatever, for his guide."¹⁵

(2) *Administrative divisions.*—On his return to the colony, Austin found that Governor Trespalacios, who had succeeded Mar-

¹¹A *Comprehensive History of Texas*, I, 474.

¹²Gammel, H. P. N., *Laws of Texas*, I, 12.

¹³Austin to Garza, May 27, 1823, and Garza to Austin, June 16, 1823. Records, Vol. 54, p. 84, and Translations of Records of Austin's First Colony, Vol. 1, p. 14, General Land Office.

¹⁵Gammel, *Laws of Texas*, I, 13.

tinez in August, 1822,¹⁶ had divided the settlement into two districts, one on the Colorado and one on the Brazos, with an alcalde in each to look after details of local administration and justice.¹⁷ In December, 1823, Austin subdivided the Brazos district, and made a third, which he called the San Felipe district;¹⁸ in the fall of 1824 he incorporated into his colony some immigrants who had drifted in and settled on the San Jacinto, and continued the district already there;¹⁹ in January, 1826, he established the district of Mina, on the Colorado;²⁰ and at the same time, apparently, subdivided the San Felipe district to create the district of Victoria.²¹ By the beginning of 1828 there was still another district, making seven in all.²² Associated with the alcalde in the administration of these early districts there was a "constable" with substantially the authority and functions of such an officer at present.²³

¹⁶Trespalacios took over the office of Governor from Martinez on August 17, 1822; and resigned April 17, 1823. See Martinez to Trespalacios, August 17, 1823, and Trespalacios to *junta provincial gubernativa*, April 17, 1823. Bexar Archives.

¹⁷Austin's statement to his colonists [1829], in *A Comprehensive History of Texas*, I, 458; Gammel, *Laws of Texas*, I, 15. Trespalacios to Bastrop, November 10, 1822 (University of Texas transcripts from Department of Fomento, Mexico): "Have the colonists elect a military commandant and an alcalde or *juez politico* to do justice to all the inhabitants of the district." The same document, with Bastrop's report on the colony, December 11, 1811, is in the General Land Office at Austin, Spanish Records, Vol. 54, pp. 75-78.

¹⁸Austin's proclamation, December 2, 1823. Austin Papers, miscellaneous. The limits of this district were defined as extending from Chocolate Bayou on the east to the San Bernard on the west, and from the Coast to the Coshattie road in the interior. On January 1, 1825, the district of the Brazos changed its name to Bravo in honor of General Nicholas Bravo. See proclamation of Austin, of that date. Austin. Papers, miscellaneous.

¹⁹Austin wrote Gaspar Flores, political chief of Texas, on August 26, 1824, that the settlers of San Jacinto wanted to join his colony and suggested that he be allowed to extend his jurisdiction to the left bank of the San Jacinto. Flores approved this request on September 21, and on November 4, 1824, Austin reported that it had been done. All the letters are in the Austin Papers.

²⁰Austin to Morrison and Buckner, January 4, 1826. Austin Papers.

²¹*Ibid.* The authority for this statement is a note on the same sheet, without date.

²²Austin's statement to his colonists [1829], in *A Comprehensive History of Texas*, I, 458; and Gammel, *Laws of Texas*, I, 15.

²³John Tumlinson to Bastrop, March 5, 1823 (Austin Papers), says he has appointed but one constable to summon witnesses and make arrests.

(3) *Austin's "Instructions and Regulations for the Alcaldes."*—For two years the alcaldes seem to have followed a procedure of their own, each "doing what was right in his own eyes," but probably conforming as nearly as conditions and his own knowledge would permit to the practice of a justice of the peace in the United States. It was power of a sort which they did not enjoy, however. They knew their own people too well and the Mexicans not well enough to feel very comfortable. John Tumlinson, alcalde of the Colorado district, begged Bastrop for a "rule whereby I may in future be governed for the general good and peace of society."²⁴ Josiah H. Bell, of the Brazos, after confiscating the property of a horse thief to pay for the stolen horses and the cost of capturing him, anxiously asks the Governor to say whether he has done rightly.²⁵ His successor, John P. Coles, in a somewhat similar case resorted to a jury of six who fined the defendant heavily and suggested that he be banished from the colony.²⁶

To introduce a more uniform system, and to relieve the alcaldes of responsibility and embarrassment, Austin, on January 22, 1824, promulgated a set of "Instructions and Regulations for the alcaldes." This constituted a brief civil and criminal code, which Austin apologetically said he had drawn up without the aid of form books or precedents, while subject to all sorts of interruptions; wherefore experience might disclose many errors and omissions which would have to be corrected. His sole purpose in everything was "but to promote the general prosperity and happiness of us all." James Cummins acknowledged receipt of his copy on March 23: "I think them good for which myself and my neighbors give you thanks. May the Lord direct us to administer them properly."²⁷

The people complain of the constable's mileage fee of five cents a mile. He has not charged for his own services and time, which he can ill afford to give to the business. Tumlinson was alcalde of the Colorado district. On January 26, 1824, John Austin was appointed constable of the new district of San Felipe and gave bond for \$500. Austin Papers, miscellaneous.

²⁴Tumlinson to Bastrop, March 5, 1823. Austin Papers.

²⁵Bell to Trespalacios, May 4, 1823. Austin Papers.

²⁶Coles to Austin, January 31, 1824. Austin Papers.

²⁷Austin to Coles, January 25, 1824, and Cummins to Austin, March 23, 1824. Austin Papers. The "Regulations" may be found conveniently in *A Comprehensive History of Texas*, I, 481-492.

The Civil Code provided for the appointment by Austin of a sheriff to execute his own processes as judge, and constables to execute those of the *alcaldes*; fixed the jurisdiction of *alcaldes*; and prescribed a definite judicial procedure. The *alcalde* acting alone had final jurisdiction under ten dollars, acting with arbitrators he had final jurisdiction up to twenty-five dollars, and primary jurisdiction, subject to appeal, in cases up to two hundred dollars. As the first step in settling a case, he must try to bring the litigants to an agreement by "conciliation"—a sort of settlement out of court. If this failed, he proceeded to try the case alone or with the help of arbitrators, as the parties to the suit determined. The political chief, José Antonio Saucedo, approved this code on May 23 and added to Austin's draft two articles, one regulating the treatment of stray animals and the other the registering of marks and brands.²⁸

The Criminal Code Saucedo approved the next day, May 24.²⁹ Articles 1-4 dealt with offences by Indians,—such as violence to colonists, rambling through the colony without license, stealing, etc. Anybody was authorized to arrest and conduct such Indians, without the use of arms, if possible, to the nearest *alcalde* or captain of militia. If, upon examination by such official, the Indians proved to be guilty, they might be punished by twenty-five lashes. Section 5 dealt with offenses against Indians. The colonists were forbidden under penalty of heavy fines to abuse Indians, being enjoined, on the contrary, to treat them "at all times and in all places in a friendly, humane, and civil manner so long as they deserve it." Several articles covered offenses by and against slaves and provided for the recovery of fugitive and stolen slaves by

²⁸Article 30 of Austin's code constituted the first fee bill ever in operation in Anglo-American Texas. The *Alcalde's* fees were: "Issuing a criminal warrant, 4 bits; for a forthwith summons, 3 bits; subpoena, 2 bits; summons, 2 bits; subpoena for arbitration, 2 bits; judgment, 3 bits; entering stay of execution, 2 bits; entering appeal and writing appeal bond, 8 bits; issuing execution, 2 bits; entering special bail and taking bond in case of attachment, 3 bits; ditto recording, for every 100 words, $\frac{1}{2}$ bit." For sheriff and constable fees: "Serving criminal warrant, 8 bits; serving a forthwith warrant, 4 bits; summons, 2 bits; summoning arbitrators or jury, 3 bits; mileage, going and returning, 5 cents a mile; levying an execution, 2 bits; selling property and collecting money, 4 per cent on sums under \$200—and 1 per cent on every \$100 after."

²⁹Saucedo's certificate is in the Austin Papers, miscellaneous.

their owners. The rest of the regulations dealt with various crimes—some suggested, no doubt, by anticipation and some by actual experience in the colony: murder, theft, robbery, gambling, profane swearing and drunkenness, cohabitation without marriage, counterfeiting or passing counterfeit money, etc. Horse racing was excepted from the general prohibition of gambling, "being," it was explained, "calculated to improve the breed of horses," but no debt contracted thereby was recoverable by law. All cases must be investigated by the *alcalde* and tried by a jury of six and the record and verdict transmitted to Austin for final judgment. Capital cases must, as we have seen, be submitted by Austin to the authorities at Monterey. Fines were the usual penalties prescribed by the regulations—to be applied to schools and other public purposes—but whipping and banishment from the colony were allowed. For theft the penalty was a fine of three times the value of the stolen property, and hard labor on public works "until the superior government decides on the case." *Alcaldes* must keep a permanent record or docket of all cases tried by them and pass it on to their successors.

In a letter to the political chief in August, 1824, Austin suggested a scale of moderate judicial fees which he asked authority to put in operation for so long as he should be responsible for the administration of justice.³⁰ He had charged nothing for any public service up to that time,³¹ and in 1829 he again wrote that up to February, 1828, when the *ayuntamiento* was organized "the labor and expense of the local government fell principally on me individually."³²

Austin's "Old Three Hundred" were a remarkably law-abiding people. He wrote Bastrop in December, 1824, that since his return from Mexico, more than eighteen months before, there had been only one theft.³³ Had the *alcaldes* exercised judicial functions alone, therefore, their public duties would have been unimportant, but they performed other services. They were Austin's

³⁰Austin's blotter, August 26, 1824. The rates suggested were: Cases involving from \$25 to \$40 six *reales*, \$40 to \$70 eight *reales*, \$70 to \$100 twelve *reales*, and above \$100 two dollars.

³¹Austin to his colonists, June 5, 1824. Austin Papers, miscellaneous.

³²*A Comprehensive History of Texas*, I, 48.

³³Austin to Bastrop, December 22, 1824. Austin Papers, miscellaneous.

local correspondents, receiving, promulgating, and executing his orders, and keeping him informed of local opinions and conditions; supervised militia elections; kept their districts free of prowling Indians and vagabonds; settled quarrels; attested contracts; and performed what passed in effect for a civil marriage ceremony. They occupied, in fact, a sort of patriarchal relation to their respective communities.

With the rapid influx of immigrants, after 1825, judicial business increased and Austin found himself unable to spare the time from other pressing demands to attend to appeals from the alcalde courts. On July 6, 1826, he issued a proclamation ordering each of the six districts then existing to elect a representative to meet with him to form a new judicial system and adopt an equitable system of taxation for its support and defend the settlements from hostile Indians.³⁴ The result of this conference was the creation of a supreme court composed of any three alcaldes. This might hear appeals from Austin himself, but it is evident that in most cases the appeal was directly from a single alcalde to this body without going before Austin. The court of the alcaldes, as he called it, held three sessions a year at San Felipe.³⁵

In November, 1826, Austin outlined for Bastrop, the Texan deputy in the State Congress, or Legislature, a complete judicial system for Coahuila and Texas. He thought this one of the State's most pressing needs. Texas should have two circuit courts, one with jurisdiction from the Sabine to the Lavaca and the other from the Lavaca to the western limit of the State; and there should be a superior court with sessions alternately at Bexar and Saltillo. The circuit courts should have final appellate jurisdiction over all cases sent up from the alcalde courts, and original jurisdiction above the alcalde's range. In some instances, of which he failed to give an illustration, he thought the superior court should have original jurisdiction; but in general it would confine itself to a review of the circuit courts. He hoped that the jury system could be established in criminal cases, and, in the meantime, appeals should be allowed in all capital cases, so that

³⁴Proclamation of July 6, 1826. Austin Papers, miscellaneous.

³⁵Austin's reply to an interrogatory in the case of *Keep vs. Groce*, Austin Papers, undated, 1830-1835; Austin's Explanation to his Colonists, a pamphlet published in 1829, in *A Comprehensive History of Texas*, I, 459.

the decision of life or death should not rest with one man. Sessions of the court in the eastern circuit might be fixed for the second Monday of October, February, and June at San Felipe, and the second Monday of December, April, and August at Nacogdoches. At both places there should be a resident clerk to keep records, issue processes, etc., and a sheriff or *alguacil* to execute writs and decrees. Fees of all officers should be fixed and forms provided for uniform procedure. Judicial proceedings in English translated into Spanish by an official translator should be legalized. This, in fact, was essential. Notaries should be created, and a digest of laws in force should be published in book form, distributed to officials, and sold at a moderate price to the people.

Turning then to general administration, Austin urged the appointment of a sub-political chief (*gefe subalterna*) at San Felipe, with authority from the Sabine to the Lavaca, or, better, two sub-alterns, dividing this territory between them, he should understand English and Spanish and be a medium of communication between the political chief and the *alcaldes*.³⁶

The main features of this plan were gradually enacted during the next eight years, but at the moment nothing was done.

Want of specific laws was from the beginning a source of embarrassment and perplexity to Austin, as it had been to the *alcaldes*. He always conformed to Mexican laws and procedure when he could ascertain what they were, and when he could not, or when they did not seem to apply to the peculiar colonial conditions, "necessity," as he wrote Lucas Alaman, "compelled me to adopt provisional and temporary regulations."* Some of the laws which he early urged upon Bastrop to meet "peculiar colonial conditions" were a probate law for the settlement of estates whose heirs resided in foreign countries; a law concerning the sale, deed-ing, and conveyancing of land by the colonists; and a law staying for twelve years the enforced payment of debts contracted by colonists before coming to Texas.

(4) *The Militia*.—Two other subjects demanded Austin's

³⁶Austin to Bastrop, November 3, 1826. Austin Papers, miscellaneous.

*Austin to Alaman, January 20, 1824. University of Texas transcripts from Department of Fomento, Mexico.

early attention—the organization of the militia and the establishment of a land system. By the national law of April 9, 1823, every male citizen between the ages of eighteen and fifty was subject to militia service, and, as we have seen, Austin was by the terms of his commission commander-in-chief of the militia of his colony. For a time the menace of the Indians was an effective stimulus to the observance of the law. In June, 1823, while on his way from Mexico, Austin issued an order dividing the scattered settlements into five districts and instructing the inhabitants to elect company officers in each.³⁷ For several years the service was fairly burdensome, and from time to time Austin had to subdivide the original districts to permit greater flexibility and local independence in dealing with marauding tribes.³⁸ A history of the militia, if material were available, would involve a history of the Indian wars of colonial Texas. By 1829 the white man's power was established, raids became infrequent, and interest in the militia organization diminished to such a degree that Austin complained that less than thirty per cent of the voting strength of the companies took the trouble to vote for officers.³⁹ They had much more important matters to occupy them.

(5) *The Land System.*—This topic deserves treatment in a separate paper. Only a summary can be given here. The subject received Austin's closest attention, and brought him more annoyance than any other problem with which he had to contend. He had wide discretion in the allotment of land to settlers in his first contract, and some who received less than others accused him of partiality and unfairness. He knew the history of the harassing litigation that beggared the early settlers of Kentucky and Tennessee, and the orderly surveys and necessary formalities and restrictions which he insisted on to prevent such a condition in Texas seemed to some who could not understand their beneficent purpose merely irritating interferences of a petty tyrant. His surveyors and clerks had to be paid, and because he exacted a fee of 12½ cents an acre for the land, they abused him for exploiting them.

³⁷Proclamation. Austin Papers, miscellaneous.

³⁸Proclamation dividing the fifth district, December 5, 1823; and of March 31, 1824, dividing the third district. Austin Papers, miscellaneous.

³⁹Austin to Bell, April 4, 1829. Austin Papers.

First as to the fees: on August 18, 1821, just before leaving San Antonio to select the land for his colony, Austin submitted a plan to Governor Martinez for the distribution of the land to settlers. Every man, whether married or single, should receive a town lot and a parcel of farming and grazing land, the former fronting on a water course. If married, two hundred additional acres should be granted in the wife's right, eighty acres for each child, and fifty for each slave. Martinez endorsed the plan and forwarded it to the commandant for approval. In the meantime, he thought Austin might proceed on the assumption that it would be approved, as he felt sure that no important alterations would be made by his superiors. From Natchitoches Austin wrote him on October 12 that he had decided to diminish the amount of land to single men and increase it to heads of families, giving them 640 acres for a headright, 320 acres for the wife, 160 for each son, and 80 for each slave.⁴⁰ In neither of these communications did Austin say anything to Martinez about charging the colonists a fee for the land.⁴¹ He had, however, already made contracts with colonists, agreeing to deliver land at 12½ cents an acre and bear all costs himself for surveying, issuing and recording titles, stamped paper, etc.⁴² Half was to be paid on receipt of title and the other half a year after. On returning to New Orleans, Austin published these terms in the newspapers and they were widely copied by the western press.⁴³ He sent Martinez and Garza copies of the papers containing his announcements and assumed that by their silence they approved. It must be obvious

⁴⁰Austin to Martinez, August 18, and Martinez to Austin, August 19, 1821. Austin Papers. Austin to Martinez, October 12, 1821. University of Texas Transcripts, archives of the Department of Fomento, Mexico.

⁴¹Austin said in his explanation to his colonists (June 5, 1824, Austin Papers, miscellaneous), that he wrote Martinez from Natchitoches "that as the land which I was to receive for myself would be no compensation for my labors and expenses in an enterprize of such magnitude, I must receive something from the settlers or I could not proceed with the Business."

⁴²Agreement with J. H. Bell, October 6, 1821, and with William Kincheloe, October 16. Austin Papers, miscellaneous.

⁴³ . . . "And explicitly stated that those who settled under the said permission to my father must pay me 12½ cents per acre which would be in full for all expences of surveying and everything. I was particular to make these terms as public as possible that no one might come without knowing distinctly the conditions of his reception."—Austin to his colonists, June 5, 1824.

to any one, he argued, that he would never have undertaken the labor and expense of establishing the colony without expecting some compensation besides the land which he might acquire. Before this question became an issue with his colonists, however, he was to have a bout with the government and gain through delay and disappointment an insight into private and official Mexican character the lack of which brought partial or complete failure to every other empresario who undertook to colonize a grant.

On December 15, 1821, Gaspar Lopez, who had succeeded Garza as commandant general of the Eastern Interior Provinces, wrote Martinez that Austin had no authority to make allotments of land, that his applications must be presented to the government, and that should the settlers arrive in the meantime, the nearest ayuntamiento should locate them provisionally until the supreme government passed the necessary provision.⁴⁵ Martinez reported the substance of this to Austin in March, 1822, and advised him, if he wished to avoid delay, to go to the capital and urge his cause in person. After one night's deliberation Austin set out for Mexico City, where he arrived on April 28. He found the new government unwilling to make a special order of his case, and had to wait with what patience he could until Congress should pass a general colonization law. The committee in charge of the subject worked slowly, with many interruptions and diversions, so that it was not until January 4, 1823, that the law was passed. "I can," said Austin, "without boasting say that my constant Exertions and importunity with the Members both directly and indirectly through my friends produced this law."⁴⁷ Six weeks later (February 18) the Emperor approved Austin's petition to settle his three hundred families on the terms established by the law. Only two features of the law need be noticed here. One increased enormously the amount of land that Austin had promised his colonists, allowing headrights of a labor (177 acres) of farming land and a league (4,428 acres) of grazing lands; and the other provided for the compensation of empresarios or contractors who introduced immigrants at the rate of 66,774 acres for each two hundred families. With success already within his grasp Aus-

⁴⁵University of Texas Transcripts from Department of Fomento, Mexico.

⁴⁷Austin to the colonists, June 5, 1824. Austin Papers, miscellaneous

tin's hopes were now dashed by the overthrow of Iturbide and the annulment of all the laws passed since his accession. On April 14, however, the constituent Congress confirmed his grant as defined by the imperial decree, and he departed for Texas.⁴⁸ He was delayed at Monterey, as we have seen, settling details concerning his authority in the administration of the colony, and did not arrive until mid-summer.

There dissatisfaction already existed over the 12½ cent fee which the settlers had agreed to pay, and in an open letter of August 6, Austin made it plain that they must fulfill their contracts. He had risked his life, health, and property in the enterprise, and would make the fortunes of all his followers; to the expense already borne he must still add that of surveying and of issuing and recording titles; the government did not pay a cent toward these expenses, and a moment's reflection would convince them that they must help him a little. Those who could must pay money, others any kind of property that would not be a dead loss to him—horses, mules, cotton, hogs, poultry, furs, beeswax, home-made cloth, dressed deerskins, etc.,—part down and the balance in two, three, and four years. Most of what he collected would really go to improve the colony, so that all would benefit from it.⁴⁹ Four days later Bastrop, whom the Governor had appointed commissioner to extend titles to the settlers, pointed out to them some of the advantages which they enjoyed through Austin's labors: his grant was confirmed, their titles were secure, and would be issued at once; no other contract had been approved, Austin's grant was limited to three hundred families, Austin was absolute in determining who should be received into the colony, and those rejected by him would have to retire to the interior, there to await the disposition of the government.⁵⁰ The murmuring continued, but for a time they paid the fee.⁵¹

⁴⁸In 1829, Austin published an account of his experiences for the information of his colonists. See *A Comprehensive History of Texas*, I, 451-54.

⁴⁹Austin to Bell, and to Bell, Robertson, Kuykendall, *et al.*, August 6, 1823. Austin Papers.

⁵⁰Bastrop's proclamation "to the Inhabitants of the Colorado District," August 9, 1823. Austin Papers, miscellaneous.

⁵¹See, for example, Austin's receipts to Jared E. Groce, October 18, 1823, for \$326.49, part payment for two leagues of land; to Francis Big-

On October 30, Austin drew up an explicit statement of the conditions of settlement in his colony: settlers must give "the most unequivocal and satisfactory evidence of unblemished character, good morals, sobriety, and industrious habits"; and must have sufficient means to pay for their lands and get a start in the colony as farmers or mechanics. "No frontiersman who has no other occupation than that of a hunter will be received—no drunkard, no gambler, no profane swearer, no idler . . . will be received." Those rejected for bad character would be ordered from the settlements, and, if necessary, escorted out under guard, their own property being seized to pay the cost of the escort. Persons accepted as settlers would receive, as a rule, a league of land of their own choice at the rate of \$12.50 per hundred acres, payable in cash, cattle, or negroes, on receipt of title. This payment would include the cost of surveying, issuing and recording title, and all other charges. Persons with large capital or a large family might obtain more than a league. Single men must combine in groups of ten in order to receive a league in common. The next day he issued a public notice requiring newcomers to report immediately upon arrival to the nearest alcalde; if they wished land, they must report to Austin himself and show evidences of good character before selecting it.⁵²

gam, November 17, 1823, for \$1291.80; to Benjamin Fowler, November 25, for 200 bushels of corn at fifty cents a bushel; to Alexander Johnson, March 7, 1824, for \$231.75 "in surveyor's orders." All in Austin Papers, miscellaneous.

⁵²"Terms on which settlers are admitted into the colony formed by Stephen F. Austin in the Province of Texas," October 30, and "Public Notice," October 31, 1823. Austin Papers, miscellaneous. After this one Garner was given ten lashes for entering the colony without the proper credentials, showing Austin's intention of enforcing to the letter the requirement of certificates of character. See Austin to Bell, December 6, 1823. Austin Papers.

The provision for granting more than a league to those whose capital or large families would enable them to improve it was sound policy and was later incorporated in the State colonization law, but many of the settlers, those "North American frontier republicans," as Austin called them, "who felt that they were sovereigns," refused to see in it a valid ground of distinction. Their complaints caused Austin great annoyance, but he was relieved from further embarrassment on this point by the colonization law of March, 1825, which required the approval of all exceptional grants by the Governor.

In the meantime, murmurs over the $12\frac{1}{2}$ cent fees had reached Bexar, and on May 20, 1824, the political chief, Antonio Saucedo, promulgated a schedule of fees which took no account of Austin's contracts. Thereafter for a league of land, the settler should pay \$127.50 to the commissioner who gave him his title, \$27 to the surveyor, \$8 for clerical labor and stamped paper, and \$30 to the government, or a total of \$192.50,⁵³ while at $12\frac{1}{2}$ cents an acre it would have cost him \$555. Austin believed that Saucedo had no authority to interfere with his private contracts, and in a straightforward review of the history of the colony made a powerful argument for their observance. The enterprise had cost his father's life; he himself had spent three years and much money in getting the colony established; the contract was a fair one; they had accepted it freely and with full knowledge of its terms, and not one of them but knew he was getting good value for his money, because titles in Austin's grant were secure and would be issued immediately, while settlers in other parts of the province had not the slightest assurance that they would ever get titles.⁵⁴ If the Governor had the right to annul a private contract, would their titles be safe? Where could one draw the line?⁵⁵ When one remembers that the cost and labor of the local administration fell mainly on Austin, that presents to keep the Indians peaceable and sometimes the equipment for campaigns against them were paid for by him, that his house was a place of entertainment for travelers visiting the country with a view to settling, that he paid a secretary \$1000 a year chiefly to record titles and prevent conflicts and costly litigation by the colonists,⁵⁶ it is easy to understand that his premium lands would not only have been an inadequate compensation; but for years would not have reimbursed him for actual expenses. Much of his difficulty Austin attrib-

⁵³Memorandum signed by Austin and Saucedo, May 20, 1824. Austin Papers, miscellaneous.

⁵⁴Settlers outside Austin's Colony realized this advantage very keenly. See, for example, H. Jackson to Austin, San Jacinto, April 3, 1825 (Austin Papers): "The settlers on the east of San Jacinto is unanimous to Continue in your Collony they are willing to sine any pe[tition] for that purpose if you are wiling to accept us in your Collony"

⁵⁵Austin's explanatnon to his colonists, June 5, 1824. Austin Papers, miscellaneous.

⁵⁶Austin's memorial to the State Congress, October 11, 1827. Austin papers, miscellaneous.

uted to the colonists' ignorance of the Spanish language and to the indefiniteness of certain laws. "You know," he wrote in 1825, that it is innate in an American to suspect and abuse a public officer whether he deserves it or not. I have had a mixed multitude to deal with, collected from all quarters, strangers to each other, to me, and to the laws and language of the country. They came here with all the ideas of Americans and expect to see and understand the laws they are governed by, . . . Could I have shown them a law defining positively the quantity of land they were to get and no more and a code of laws by which they were to be governed I should have had no difficulty but they saw at once that my powers were discretionary, and that a very great augmentation to their grants could be made, and thus the colonization law itself and the authority vested in me under that law holds me up as a public mark to be shot at by every one.⁵⁷

Many of the settlers offered to pay. No candid man denied the obligation, said John P. Coles;⁵⁸ but Austin, knowing that others would refuse, and that efforts to make them pay against their will would injure the colony, relinquished his claims and collected from none.⁵⁹ Instead, Bastrop agreed to give him a third of the commissioner's fees, which would yield him \$42 a league.⁶⁰ Later both Federal⁶¹ and State⁶² colonization laws guaranteed such contracts between empresarios and colonists, and in his subsequent contracts Austin took advantage of this.⁶³ In April, 1825, at the opening of his second colony, he announced that, besides the cost of surveying, stamped paper, and the \$30 which must be paid to

⁵⁷Austin to B. W. Edwards, September 15, 1825. Austin Papers.

⁵⁸Coles to Austin, July 7, 1824. Austin Papers.

⁵⁹Austin's statement to his colonists (November 1, 1829), in *A Comprehensive History of Texas*, I, 462.

⁶⁰Austin's "Statement . . . relative to the settlement of the business between S. F. Austin and the late J. H. Hawkins, September 14, 1832. Austin Papers, miscellaneous. An excellent account of Austin's difficulties over the 12½ cent fee was published by Lester G. Bugbee in April, 1899, "Some Difficulties of a Texas Empresario," *Publications of Southern History Association*, 95-113.

⁶¹Passed August 18, 1824—Article 14. Gammel, *Laws of Texas*, I, 98.

⁶²Passed March 24, 1825—Article 9. *Ibid.*, 100.

⁶³Erasmio Seguin, Texan deputy in the National Congress, wrote Austin on August 11, 1824, that the colonization law would be passed the next day and that this was the intention of an article, which he quoted. Austin Papers.

the State in installments of four, five, and six years, applicants for a league must pay him \$60, the commissioner \$15 and the secretary who filed the application and translated and recorded the papers \$10.⁶⁴ Two years later he announced slight modifications of this schedule,⁶⁵ and in November, 1829, put into effect the scale that seems to have continued thereafter. This provided that immigrants must first file information concerning the number, age, and sex of their families and dependents, their occupations, place from which they emigrated, date of arrival in the colony, and certificate of Christianity, morality, and steady habits. If this was found satisfactory, they were given a certificate stating that they had been received by Austin as colonists, which entitled them to select for themselves any unappropriated land in the colony. For this certificate they paid Austin's secretary \$2. Having made their selections, they presented through the secretary a formal petition to the commissioner for a title. For the clerical labors involved in this, including translations, they paid the secretary \$5, signed a note promising to pay him \$5 more when the title was delivered, and signed a note for \$50 to Austin, payable \$10 on receipt of title and the balance in one year. "The above," explained Austin, "is a compensation for the labor of translating and attending to getting the titles for the applicant, which I am not bound to do, as empresario, unless paid for it."⁶⁶ In addition to this there was the commissioner's fee, fixed by law at \$15 for a league of pasture land and \$2 to \$2.50 for a *labor* of farming land;⁶⁷ the surveyor's fee of \$4 a mile; and the cost of stamped

⁶⁴"Regulations to be observed by those desiring land in Austin's Second Colony," April —, 1825. Austin Papers, miscellaneous. Saucedo seems to have approved this October 17, 1825.

⁶⁵"Notice," April 16, 1827. Austin Papers, miscellaneous.

⁶⁶Printed notice, dated November 20, 1829, pasted inside the front cover of "applications for land in Austin's colony, Book A," General Land Office. Austin suggested the following form of application:

"To Mr. S. F. Austin, Empresario—I have emigrated to this Colony, as one of the colonists whom you are authorized by Government to introduce; and I request that you will examine my recommendations, and that if found to be agreeably to law, receive me and my family under your contracts with the Government. I agree to the terms published by you on the 20th November, 1829; I am ready to take the oath prescribed by the Colonization Law."

⁶⁷Decree No. 62, Laws of Coahuila and Texas, May 15, 1828, in Gammel, *Laws of Texas*, I, 216.

paper for the application, title, and certified copy.⁶⁸ Until 1827 the original title was retained in Austin's office and a certified copy given to the settler, but, realizing the danger of losing loose sheets, Austin asked and obtained permission to record titles in a bound book.⁶⁹ The work of transcribing the documents and verifying the copies was done by Austin and his secretary, Samuel M. Williams, and Austin paid a draftsman \$5 a day from his own pocket to plat the survey at the end of each title.⁷⁰ The volume, in the General Land Office, bears eloquent testimony to his wise and painstaking interest in the welfare of the settlers.

The fees which Austin demanded of colonists who settled his later grants were frequently never paid. Hundreds of notes for \$50 each still preserved in his papers at the University of Texas show that many of them did not make even the initial payment on delivery of title. "No one was turned away, or ever waited for his title, because he was poor," said Austin, and most of those who paid did so with cows, horses, mules, hogs, corn, and other produce at a price far above the market.⁷¹ At times, on the contrary, he even lent them the money to pay the surveyor and the commissioner. Some money, however, was absolutely essential, and when he could Austin exacted cash from those who had it. This caused complaints of partiality, in which, to Austin's surprise, those who had profited most from his leniency and discrimination sometimes joined. Characteristically, however, he offered excuses for them: "They did not reflect that it was the interest of all to get the settlement under way, and that if poor men had been turned off because they could not pay their fees, the settlement would have been thinned so much that it would have been totally broken up."

The main features of the system as finally developed by Austin may be restated for the sake of clearness: From the beginning

⁶⁸Austin's "Notice" to the colonists, April 16, 1827. Austin Papers, miscellaneous.

⁶⁹Governor of the State to Gaspar Flores, Commissioner of Austin's Colony, May 31, 1827. Land Office, Vol. 54, p. 105.

⁷⁰*A Comprehensive History of Texas*, I, 459.

⁷¹Austin's statement to the Colonists, November 1, 1829, in *Ibid.*, 462-63: "I appeal to you all to say whether I would now get 40, 50, or 60 Dlls for horses which I have received at \$100, 120, and 150 Dlls and all other property in the same proportion."—Austin to his colonists, June 5, 1824. Austin Papers, miscellaneous.

Austin had sole authority to admit or reject immigrants within the broad limits of his grant, and the law, as well as sound policy required him to prevent the settlement of bad characters. He therefore required applicants to file testimonials of character from responsible persons and take the oath of allegiance to the Mexican government before granting them certificates of admission, which authorized them to select land and have it surveyed by an official surveyor appointed by the commissioner. This done, and the necessary notes and fees attended to, the applicant petitioned for his title, which, upon proper attestation from Austin, the commissioner issued. Essentially, of course, the system was the same as that in the United States, so that Austin's claim to our admiration is not that he originated an excellent system, but that at the cost of much labor and some money he so faithfully adhered to a model already tested by the experience of a generation.

3. *Establishment of Normal Government—the Ayuntamiento of San Felipe*

Austin's tenure of extraordinary powers was probably more prolonged than either he or the authorities had expected it to be, and was certainly more so than he desired. This was due to the disorganization of the central government, which made it impossible to attend to local affairs. By 1824, however, discussion of the Constitution was sufficiently advanced to warrant Congress in taking steps to put the Federal system into operation, and on February 4 it promulgated a decree for the election of State Legislatures. On May 7 it united Coahuila and Texas into one State, until Texas should be qualified "to figure as a State by itself," and ordered the election of ten deputies for Coahuila and one for Texas to form the Legislature at Saltillo.⁷² Texas was represented in the Federal Congress at this time by Erasmo Seguin,⁷³ and in May Bastrop⁷⁴

⁷²Dublan and Lozano, *Legislacion Mexicana*, I, 677, 706.

⁷³The salaries of deputies were paid by their respective provinces. The colonists subscribed 640 bushels of corn towards Seguin's maintenance. See list of subscriptions, November 16, 1823, Austin Papers, miscellaneous; also Austin to political chief, December 2, 1823, in translations from Bexar Archives, Texas State Library.

⁷⁴Austin to Alcalde of San Felipe de Austin, May 25, 1824. See also Austin to political chief, April 20, 1824—vote taken by courier yesterday and more than half the colonists have already chosen Bastrop; will

was elected to represent it in the Legislature. Austin, as we have seen, was a steady correspondent of Bastrop's, and made many suggestions for the improvement of local government, but the Legislature was engaged until March, 1827, in framing the Constitution, and the only law passed prior to that time which was of material importance to the colony was the colonization law, and that did not affect the government. Sections VI and VII of the Constitution applied to local government, the first defining the duties, powers, qualifications, and method of election of the political chief, and the second doing much the same thing for ayuntamientos. In both cases the substance of former Spanish laws and practices was embodied, but one provision led to Austin's release legally and formally, at least, from the burden of governing his collection of "North American frontier republicans." This was the requirement that an ayuntamiento must be established in towns which "of themselves or with the territory they embrace contain a population of one thousand souls."⁷⁵

The Constitution prescribed age, residence, property, and educational qualifications and terms of service,⁷⁶ but left particular definition of the duties and functions of the ayuntamiento to legislation. Accordingly on June 15 the Governor promulgated a law entitled "regulations for the political administration of the towns."⁷⁷ This began by providing that the ayuntamientos in towns with a population under 2,500 should consist of one *alcalde*, two *regidores*, and one *sindico procurador*; those between 2,500 and 5,000 should add two more *regidores*; those between 5,000 and

make a full report when all votes received; feels sure that Bastrop will be unanimously elected. Translations from Bexar Archives in Texas State Library.

⁷⁵Article 156, in Gammel, *Laws of Texas*, I, 335.

⁷⁶One must be a citizen, over twenty-five years old if single or twenty-one if married, three year a resident of the district, must have "some capital or trade whereby to subsist," and be able to read and write. Elections were to be held the second Sunday and Monday in December. All Alcaldes whether one or more, half the *regidores*, and half the *sindicos* were elected annually. If there was only one *sindico* he held for only one year.

⁷⁷This is omitted in the official publication of the Laws of Coahuila and Texas, and therefore does not appear in Gammel. There is a copy in Spanish in the Austin Papers and a translation in the *Texas Gazette*, October 31, 1829. The translation is anonymous, but was no doubt done by Austin. Among his manuscripts there are a number of notes identical with the footnotes in the *Gazette*. See p. 299, note 2, below.

10,000 were entitled to two *alcaldes*, six *regidores*, and two *sindicos*; and so on. The duties of the *ayuntamiento* covered a wide range, including most of the functions of a modern city commission and some of those belonging to the country commissioners—to promote the establishment of hospitals, poor houses and educational and charitable institutions, and to administer them when established; to license qualified and properly certified physicians and druggists and prevent others from practicing; to appoint boards of health, inspect foods, markets, and drug stores, keep the streets clean, visit prisons, drain lakes and stagnant ponds, and wage continual war on every menace to the health of man and beast; to see that streets were straight and ornamented with shade trees, and wherever possible, paved and lighted; to maintain roads and public buildings; preserve the forests; punish vagabonds, drunkards, idlers, and gamblers; promote agriculture, industry, and commerce; administer municipal funds, which, with the consent of the Governor and Legislature, might be raised by taxation; establish and supervise primary schools; and take the census every six months—these were some of the more important duties of the *ayuntamiento*.

Austin was at Saltillo in the fall of 1827 and took occasion to urge the establishment of constitutional government in his colony.⁷⁹ In response to his request the Governor, on November 17, instructed the political chief to order an election for an *ayuntamiento* with jurisdiction from the Lavaca to the watershed between the Trinity and the San Jacinto and from the sea to the San Antonio Road. Austin would preside over the electoral assembly and install and administer the oath to the newly elected officers, and all cases pending in the present *alcalde* courts would pass to the constitutional *alcalde*.⁸⁰ On December 11 the political chief transmitted the order to Austin, and he called the election for February 3-4, 1828. Austin realized the importance of choosing competent men who would take their duties seriously,

⁷⁹Austin to the State Congress, October 11, 1827. Austin Papers, miscellaneous.

⁸⁰Austin to J. H. Bell, January 1, 1828. Austin Papers. Austin suggested Ira Ingram for *Alcalde*, Bell and William Morton for *regidores*, and L. R. Kenney for *sindico procurador*. Thomas M. Duke, M. B. Nuckols, and Rawson Alley, were being mentioned for places, he said.

and it is evident that he did some electioneering.⁸¹ One may suspect in this a reluctance to retire from the helm, but on the contrary he was probably more interested in electing men to whom he could safely surrender his position as buffer between the colonists and the government.

While the election presented to the experience of the colonists little that was new in methods, nevertheless, as the first constitutional election in Anglo-American Texas, it demands a somewhat detailed description. Polls were opened in the old *alcalde* districts under the presidency of the respective *alcaldes*, and the voters elected a secretary and two tellers who could read and write. A candidate must be twenty-five years old, if single, twenty-one, if married; must have resided three years in the municipality, one year immediately preceding the election; must be able to read and write; and have a capital or trade sufficient for his subsistence. Qualifications for the franchise are not stated, but were probably the same. Voters called the names of their candidates aloud and they were recorded by the secretary; if they presented a written list, the names were read aloud by the secretary. All voted for an *alcalde* and two *regidores*, and, if the district contained five hundred inhabitants, a *comisario* and a *sindico procurador*. Separate tallies were kept for each office and sent at the close of the election to Austin, who in this first election had the position which thereafter belonged to the *alcalde* of the municipality. A week later the officers of the district elections met at San Felipe, canvassed the votes, and announced the successful candidates, sending a certified copy of the vote to the political chief, posting another in a public place, and filing the original lists in the local archive.⁸²

The duties of the *alcalde* fell into three general classes: (1) He presided over the *ayuntamiento* and was its executive officer; (2) he was a primary judge, or judge of first instance, having sole jurisdiction in cases under \$10, final jurisdiction acting with a representative of each of the parties to the suit in cases between

⁸¹*Ibid.*

⁸²For the procedure here described it is necessary to read the Constitution, Arts. 51, 53, 54, 160, in Gammel, *Laws of Texas*, I, 429, 446; Decree No. 23, in *Ibid.*, 191-192; Decree No. 37, Arts. 97-108, in the *Texas Gazette* as cited in note 77 above; Governor to political chief, November 17, 1827, as in note 80; and the proceedings of the first session of the *ayuntamiento* of San Felipe de Austin (see below, p. 299ff).

\$10 and \$100, and preliminary, examining jurisdiction in all other cases;⁸³ (3) and he was the medium of correspondence and administration between the colony on one side and the superior department and State authorities on the other, transmitting reports and memorials from the former and promulgating and putting into effect the orders and instructions of the latter. The natural comparison that comes to mind is that of a mayor who has not given up his judicial functions to police judges, but the *alcalde's* part in the State administration was much more direct than that of our mayors. The duties of the *regidores* and of the *sindico procurador* are nowhere clearly defined, the various Spanish and Mexican laws concerning the *ayuntamiento* assuming apparently that their functions were too well known to require statement. In general the *regidores* may be compared with our aldermen or city commissioners. They served on committees and looked after various departments of municipal administration, and in the absence of the *alcalde* the first *regidor* (ranked according to the number of votes received at election) acted in his place. The *sindico* was described by the *ayuntamiento* itself as "the procurator (*personero*) of all the civil affairs of the municipality,"⁸⁴ but this hardly enables one to visualize his functions. The best that can be made of the office is that it called for a sort of combination of the duties of a notary and city attorney. In addition to the elected officers there was a sheriff (*alguacil*), appointed by the *alcalde*, and a secretary elected by the *ayuntamiento*. The fact that all official correspondence and records, including the minutes of the *ayuntamiento*, must be in Spanish, which few of the colonists understood, made the secretary's office an important and burdensome one.⁸⁵

As we have seen, districts or precincts with 500 inhabitants elected a *comisario* and a *sindico*. Their term of office was one year, and while they might be re-elected, they could not be com-

⁸³Decree No. 39, "for the administration of justice in the State of Coahuila and Texas," June 22, 1827. Printed copy in the Bexar Archives. The law is omitted in Gammel.

⁸⁴"Municipal Ordinance for the Government and Regulation of the Ayuntamiento of Austin," enacted as Decree No. 100 by the Legislature. *Texas Gazette*, October 31, 1829. Chapter VII of Decree No. 37 is entitled, "Of the *comisarios de policia* and *sindicos*," but it describes only the duties of the *comisarios*.

⁸⁵*Ibid.*, Chapter VI.

pelled to serve more than one year in three. They were subject to the *ayuntamiento*, and might attend its sessions voluntarily or on summons, having a voice but no vote in its deliberations. The duties of the *comisario* were to take the census of his precinct, keep a record of the families moving into it and of the places from which they came, assist tax collectors, execute the orders of his superiors, arrest disturbers of the peace and preserve public tranquillity, and report "idle and vicious persons" to the *alcalde*.⁸⁶ In addition, he was invested with minor judicial authority similar to that of the *alcalde* or of a justice of the peace.⁸⁷ The duties of precinct *sindico* are described merely as being the same in his sphere as those of the *sindico* of the *ayuntamiento*.⁸⁸

We are fortunate in having the minutes of the *ayuntamiento* of San Felipe for the first four years of its existence—from February 12, 1828, to January 3, 1832⁸⁹—and in being able to see therein the Anglo-American adapting himself to Spanish local institutions. The first returns showed Thomas M. Duke elected *alcalde* over Austin's candidate, Ira Ingram, by a vote of 121 to 111. Thomas Davis and Humphrey Jackson were elected *regidores* and Rawson Alley *sindico*. Austin had called attention to the necessity of frequent meetings, and urged the choice of members within convenient distance of San Felipe,⁹⁰ but Duke lived ten and Jackson thirty leagues from the capital.⁹¹ The result could be easily foreseen. After regular meetings for less than two months the *ayuntamiento* adjourned to meet no more, if we are to judge from the absence of minutes, until time to canvass the next election returns in December. It performed but two acts of any consequence. One was to frame a municipal ordinance defining its own duties, functions, and rules of order, and outlining a plan of taxation for local needs; and the other was the adoption of a memorial to the Legislature to legalize labor contracts with servants whom the Constitution forbade immigrants to bring

⁸⁶Decree No. 37, Chapter VII, as cited in note 77, above.

⁸⁷Decree No. 23, in Gammel, *Laws of Texas*, I, 192.

⁸⁸Decree No. 37, Art. 158.

⁸⁹Beginning publication in this issue of *THE QUARTERLY*, p. 299.

⁹⁰Austin to Bell, January 1, 1828. Austin Papers.

⁹¹Minutes of the *ayuntamiento*, March 14, 1828.

to the country as slaves.⁹² The first was required by law, and was submitted to the Legislature and approved as a sort of city charter.⁹³ To meet municipal expenses and build a jail and town hall it levied specific property taxes on land, live stock, and slaves—ranging from \$4.50 on a league of land to two cents a head on hogs,—and occupation taxes on lawyers, merchants, and keepers of “tippling shops.”⁹⁴ The occupation taxes or licenses were from two to three times as high for foreigners as for citizens.

Having assessed the taxes, the ayuntamiento endeared itself to the people by taking no steps to collect them. “In fact,” said Austin speaking of this body, “they did nothing on any subject that they ought to have attended to.” The members were subject to fine for neglect of duty, and only Austin’s intervention prevented the political chief from imposing it. “I have actually exhausted all the stock of reasonable excuses that I could devise,” said Austin, “and have drawn so largely upon shadows and frivolous apologies that I am ashamed to interfere any more.”⁹⁵ Nevertheless, when the next ayuntamiento showed a disposition to take its duties seriously, a storm of protest arose from the people: The colonization law specifically exempted them from taxation and the ayuntamiento therefore had no legal right to levy a tax; the order requiring them to register births and deaths in their families was an imposition; the enforcement of the vagrancy laws was tyranny; the plan to build a courthouse “for the lawyers to strut in” was inexcusable extravagance. As always it fell to Austin to quiet the rising storm with arguments compounded of homely wisdom, cajolery, and persuasion, in the use of which he was a master. Austin himself was urged to become alcalde but declined. He no longer had the patience that the office required, he said; and moreover he had “other things to attend to of much more importance to the colony than settling little neighborhood disputes about cows and calves.”*

⁹²*Ibid.*, March 14, April 5, 1828.

⁹³Decree No. 100, in the *Texas Gazette*, October 31, 1829; omitted from official publication of the laws. See pp. 311-324.

⁹⁴The list of taxables mentioned in the law differs somewhat from that recorded in the minutes of March 14, 1828.

⁹⁵Austin to Bell, March 17, 1829. Austin Papers.

*Austin to Bell, April 16, 1830. Austin Papers.

A study of the minutes for the next three years shows the ayuntamiento performing the various functions of a modern city and county commission: laying off roads and supervising their construction; regulating ferries and ferriage rates; creating boards of health, boards of medical examiners, and quarantine boards; regulating weights and measures; repairing churches and public buildings; directing militia organization; holding special elections and settling election disputes; serving generally as conservator of public morals, first warning and then punishing vagrants and drunkards, enforcing the laws against gambling and other forms of vice, and closing "tipling shops" at ten o'clock. It assisted Austin in keeping the colony free of undesirables, advising when to grant and when to withhold titles to land; and relieved him of no little responsibility in deciding when titles should be forfeited for non-fulfillment of the conditions of the grant. Finally, it strove earnestly, but without success, to raise funds for the establishment of an academy at San Felipe. The problem of getting revenue for indispensable expenses remained always a most difficult one and the collections left no surplus for permanent improvements. The courthouse and jail projected by the first ayuntamiento were still unbuilt in 1832. This made the safeguarding of prisoners awaiting trial an expensive and embarrassing task, and helped to emphasize the defects in the judicial system. Another difficulty was that of keeping a competent secretary acquainted with Spanish. Samuel M. Williams served during most of the period under examination, but it was a sacrifice which he could ill afford to make, and whenever possible he withdrew from the office. During such intermissions Austin could sometimes be induced to serve; and on one occasion the ayuntamiento employed, to its subsequent regret, the Federal customs collector, George Fisher.⁹⁶ Throughout there is evidence of the closest harmony and co-operation between Austin and the ayuntamiento; he was always consulted on any matter of State or Federal relations.

Of the division of labor between the different members of the ayuntamiento the minutes give us no information. The principal employment of the alcalde was judicial, but his court records are not preserved. The general judicial system is clear, however,

⁹⁶Minutes, October 5, 16, 18, 1830.

from a study of the Constitution and of Decree No. 39, approved June 21, 1827. These show, as we have already seen, that the *alcalde* had sole and final jurisdiction in petty cases both civil and criminal. This jurisdiction was purely local, and, in a way, was outside the general system. In more important cases the *alcalde* was the court of first instance, conducting the examining trial and sending the record to the *asesor general*, or State's attorney, at Saltillo for advice as to the verdict that he should render. Having received the *asesor's dictamen*, or opinion, he must give judgment within eight days. He was not compelled to follow the *dictamen* exactly, but, since the *asesor* was a competent lawyer, he varied from it at some risk. An appeal could be, and in cases involving corporal punishment must be, taken from the court of first instance to the first chamber of the Supreme Court, which sat at Saltillo. The Supreme Court was composed of three judges, or *ministros*, and was divided into three chambers, one judge presiding over each chamber, and associating with himself in the hearings two colleagues, chosen one each by the parties to the suit. The second chamber heard appeals from the first, but the third was not a trial court at all. It ruled on questions of jurisdiction arising in the lower courts, determined "appeals of nullity"—motions to quash or set aside verdicts of the lower courts,—had some part, not clearly defined, in appeals from ecclesiastical courts, and had certain semi-clerical functions.⁹⁷

The opportunities for delay in such a system were very great, and its inconvenience to the Texans was enormous. Thus in any case of corporal punishment there was first an examining trial before the *alcalde*, the evidence was then forwarded to the *asesor general* at Saltillo, some 500 miles away, his *dictamen* was returned to the *alcalde* and judgment pronounced, but before it could be executed the judgment and all the documents in the case must make another trip to Saltillo to receive the approval of the Supreme Court. With the least possible delay four months were consumed in this procedure, and the normal time was from six to eight months.⁹⁸ In the meantime the prisoner was supposed to be in jail or employed on the public roads. If, as at San Felipe,

⁹⁷Constitution of Coahuila and Texas, Title III, in Gammel, *Laws of Texas*, I, 447-450; Decree No. 39 (June 21, 1827), in Bexar Archives.

⁹⁸Editorial in the *Texas Gazette*, August 29, 1830.

there was no jail, his safekeeping was both expensive and embarrassing.⁹⁹

The Constitution¹⁰⁰ authorized the Legislature to establish as soon as possible a system providing for trained judges (*jueces de letras*) in the primary courts and trial by jury, and time after time the colonists petitioned for them,¹⁰¹ but it was not until 1834 that the Legislature acted. Then it enacted¹⁰² a plan for district and superior courts similar to that suggested by Austin to Bastrop in 1826, but before it went fully into operation the revolution brought more sweeping changes.

It remains only to speak of the election of State officers. These were chosen by indirect vote, the citizens of each municipality electing electors in August who met at the capital of the department in September and voted for governor, vice-governor, the executive council, and members of the Federal Congress and the Legislature. In Texas, where until 1832 there was only one department, the vote of this body was final in the election of members of the Legislature, but for the other offices the departmental votes had to be canvassed by the Legislature to determine the result. In case of a tie, or no majority, for the office of governor the Legislature elected from the "two or more . . . having the highest number of votes."¹⁰³ This language lacks something of clearness, but fortunately it is not essential to the object of this paper to resolve the ambiguity. Before taking their seats it was customary for the newly elected members of the Legislature to ask and receive formal instructions concerning legislation which their constituents desired.¹⁰⁴

Until 1832, when the ayuntamiento of Brazoria was created, all the Anglo-American portion of Texas, except that between the Sabine and the San Jacinto, was subject to the jurisdiction first

⁹⁹See, for example, Austin to Musquiz, November 30, 1830. Austin Papers, miscellaneous (Blotter in June file).

¹⁰⁰Arts. 92 and 93.

¹⁰¹For example, minutes of the ayuntamiento, November 30, 1830; resolutions of a convention at San Felipe, June 12, 1832 (Translations from Bexar Archives, Texas State Library).

¹⁰²Decree No. 277, April 24, 1834, Gammel, *Laws of Texas*, I, 364-384.

¹⁰³Constitution, Art. 134.

¹⁰⁴See, for example, requests for such instructions in Sambrano to Austin, May 10, 1824, Austin Papers; and Austin to ayuntamiento of Nacogdoches, September 18, 1830, Nacogdoches Archives (Texas State Library).

of Austin and then of the ayuntamiento of San Felipe. The machinery of local government in frontier societies is likely under the most favorable conditions to work jerkily, with much grumbling and protesting, reflecting the characteristics of the community. The normal "North American frontier republican" is impatient of the restraints and formalities of law; and here the natural difficulties of local administration were aggravated by the obstacle of language and the colonist's inability to inform himself of the laws. It, nevertheless, seems plain from the documents that actual government in Austin's colony conformed with noteworthy fidelity to the Constitution and the laws. Perhaps this was due in part to the fact that in its essentials the system did not differ greatly from that with which the colonists were already familiar, but it was also due in no small measure to Austin's powerful influence and unremitting oversight. "Upon the whole," wrote a recent settler from Missouri in 1832, "I beleave we get along full as well as the inhabitants of territories in the United States, beleave the laws here are as well administered as they are in Arkansas and perhaps better, and equally as well as they were when I first went to Missouri."¹⁰⁵

¹⁰⁵J. F. Perry to Grady, July 12, 1832. Austin Papers.

THE RESIDENCIA IN THE SPANISH COLONIES

CHARLES H. CUNNINGHAM

The residencia was a judicial examination held, or an account given of the official acts of an executive or judicial functionary during the term of his incumbency. It was a trial held at the expiration of the term of office of the person concerned, or, in case of malfeasance, at any time.¹ It was utilized by the Spaniards through three hundred years of their rule in every province and colony in America. It was the means by which Columbus was deprived of power and sent home in disgrace on his third voyage, it was reserved for the conquerors of Mexico and Peru, and for every other official of consequence who followed them. It was notable not only for its universality, but for its ineffectiveness, and for the persistence with which the institution was retained, when repeatedly shown and universally known to be ineffective.

The principle underlying the residencia was bequeathed to the Spaniards by the Romans, being similar to, and perhaps derived from, their law which gave the right of accusation to any Roman citizen against an office-holder. It combined the features of a general survey of the official career of the individual under investigation, an auditing of his financial operations, if he handled government funds, and a general trial. Its purpose was to ascertain

¹Special emphasis should be placed upon the last clause of the above definition. The periodical residencia was not the sole means for the removal of officials in the Spanish colonies. The conclusion seems to have been reached by many historians that officials were permitted to conduct themselves carelessly, running their offices to suit their own personal convenience from the date of their appointment, in the assurance that their tenure was sure until the termination of a specified term, and that the periodical residencia was the only occasion on which they might be held to answer for their sins. Only the most scant attention has been given by modern writers to the residencia. Helps, in the most unsatisfying and uncertain of his chapters on Spanish colonial institutions, traces the residencia from the *Theodosian Code* and the *Fuero Juzgo*. (Helps, *The Spanish Conquest in America*, III, 148-158.) He is more than usually conjectural and theoretical in his treatment of the subject. See also the brief references in Bancroft, *History of Central America*, I, 250-251, Vander Linden, *Histoire*, 349, Moses, *Establishment of Spanish Rule in America*, 172, and Priestley, *José de Gálvez*, 96-99. The latter author contrasts the residencia, *pesquisa* and the visitation.

whether he had executed his duties faithfully, and it served to clear him if he were proved honest, giving him a clean certificate of recommendation. It proceeded on the principle that he was guilty until proved honest. If he were shown to be guilty of breach of trust, official misconduct or dishonesty, he was apprehended, degraded and punished, supposedly according to his deserts.²

It is the purpose of this paper to illustrate the general features of the *residencia* in the Spanish colonies by concrete cases drawn from the history of the Philippines. An exhaustive review of the subject, illustrating or discussing *residencias* in all the colonies of the Spanish empire, would be quite beside the point. It is assumed that conditions in the Philippines were sufficiently characteristic of all the colonies of the Spanish colonial empire to make this study of general illustrative value. The same laws were applied there and the same practices followed there as elsewhere. The laws of the Indies were equally in force there, and appeals from the Philippines were entertained in the Council of the Indies as from all other colonies.

It is important to note not only that an investigation was conducted at the close of the official term, but that one might be held at any time during the period of service. The term *pesquisa* was applied to that form of investigation which was carried on by a special investigator or *pesquisidor*, who was sent when serious charges were made against the conduct of an official, and before his term had expired. The distinguishing feature of the *pesquisa*, as prescribed by the laws, was secrecy, but as an actual fact few if any were carried out secretly. On receipt of charges

²Bourne, in his *Historical Introduction* (Blair and Robertson, I, 51-52), characterizes the *residencia* as follows: "It was an institution peculiar in modern times to the Spanish colonial system. It was designed to provide a method by which officials could be held to strict accountability for all acts during their terms of office. . . . To allow a contest in the court involving the Governor's powers during his term of office would be subversive of his authority. He was then to be kept in bounds by realizing that a day of judgment was impending, when every one, even the poorest Indian, might in perfect security bring forward his accusation. In the Philippines the *residencia* for a Governor lasted six months and was conducted by his successor, and all the charges made were forwarded to Spain. . . . The Italian traveler Gemelli Careri, who visited Manila in 1696, characterizes the Governor's *residencia* as a 'dreadful trial,' the strain of which would sometimes 'break their hearts.'"

or other evidence of the criminal proceedings of an official, a *pesquisidor* would be dispatched by the Council of the Indies or by the local *audiencia*, according to the rank and position of the offender. Obviously the arrival of a magistrate in a colonial or provincial capital could not be kept a secret, and frequently advance information of his coming was sent ahead. After a preliminary investigation by the visiting magistrate, the offending official might be suspended from office, preparatory to his formal trial, or, if sufficient evidence were not forthcoming, the investigator would return whence he came to make a report, favorable or unfavorable, as the case might be. Usually, if nothing more than this were done, the matter was dropped, and the official under investigation was allowed to continue in office. If he were suspended from office, he would remain under arrest, or, as Helps suggests (III, 146), practically under impeachment. Regular *residencia* proceedings would then be instituted, and as a result the defendant might be cleared, or he might be fined only, or, if criminal offenses were proved, he might be removed from office and penalties imposed in accordance with the criminal code. Appeals might be made from the judge of *residencia* (either the *pesquisidor* or another judge not connected with the preliminary investigation, but usually the former) to the *audiencia* of the district or to the Council of the Indies. In fact, original judgment was always reviewed in the *audiencia*, unless the investigating judge were especially commissioned by a higher authority,—for instance, the Council of the Indies.

The faculty of determining whether or not cases merited investigation belonged to the *acuerdo* of the *audiencia* and governor (or viceroy in Mexico or Peru), while the designation of the judge was the function of the executive.³ The judges sent on these missions of *residencia* were not at first authorized to render definitive sentences, but that power was conferred upon them by the

³*Recopilación de Leyes de Indias*, 5-5-21 (Book 5, Title 5, Law 21). The *acuerdo* was a meeting or conference between the governor, viceroy, or captain-general and the *audiencia*. The determination or decision of this meeting was also termed an *acuerdo*. It transpired that the *acuerdo* came to be of great importance and frequently the *audiencia* went so far as actually to legislate in these meetings, sometimes with the consent of the executive, sometimes without it and against his judgment.

law of 1576.⁴ Appeals might be made to the audiencia in case the fine exceeded two hundred ducats. If it involved the death penalty, permanent deprivation of office, or a monetary consideration exceeding two thousand pesos, a case could, prior to 1799, be appealed to the Council of the Indies. After that time only the residencias of governors, viceroys, *oidores* and superintendents could be tried in the Council, and they were resolved there in first instance.⁵

A typical instance of the sort of investigation referred to above may be noted in the case of Antonio Pimentel, governor of the Mariana Islands, whose residencia was taken in the decade following 1711. There may be noted in this case, especially, the distinction between the formal residencia, conducted at the close of the regular term of office, and an investigation of charges brought during the incumbency of an official. This case illustrates both forms of investigation, for it originated in a charge of treason against Pimentel, who, it is said, had furnished food and water to the crews of two English vessels, enemies of Spain, and these same ships had afterwards captured the galleon *Nuestra Señora de la Encarnación*, en route from Manila to Acapulco. The conduct of the case was given to Magistrate Torralba, of the Manila audiencia. Notwithstanding his plea of ignorance that a state of war existed between Spain and England, Pimentel was sentenced to the forfeiture of the bonds which he had posted on assuming office, and, in addition, was deprived of his post as governor. This sentence was rendered July 24, 1714.⁶ The tribunal sentenced Pimentel to prison, and ordered that his residencia be taken; accordingly, an examination was made of all his official acts in the office which he had held. Pimentel, therefore, not only had to stand investigation for the particular offense which had brought about his removal, but he was also subjected to residencia over his entire career as governor. It may be noted that the two forms of investigation were separate and distinct on this occasion.

Owing to the death of Governor Lizarraga, the imprisonment

⁴*Ibid.*, 7-1-14.

⁵*Ibid.*, 5-12-31.

⁶*Expedientes relativos á la residencia de Don Antonio Pimentel, gobernador de las Marianas, Archivo de Indias*, 68-4-17 and 18.

of Oidor Villa, and the state of anarchy surrounding the administration of Oidor Torralba as temporary governor, Pimentel was forced to languish in prison several years while he awaited the formal residencia. Luís de Tagle was appointed as his successor, and judge of residencia on June 25, 1717.⁷ A letter of the audiencia, dated August 9, 1718, advised the governor that there were four hundred and twenty-seven unfinished cases on the docket of the tribunal, and chief among those which ought to be finished without delay was the review of the residencia of Pimentel. It was added that there seemed to be no prospect that a boat could get to Guam before 1719. The record of the termination of this suit probably reposes somewhere in the archives of Spain, tied in an aged, yellow packet, bound by red tape.

Practically all of the colonial officials were subject to residencia. The most sensational and widely known were those of the viceroys and captains-general, but *oidores*, treasury officials *encomenderos*, *alcaldes mayores* and *corregidores*,⁸ admirals, generals, captains and constructors of galleons were likewise examined in this way.⁹ Clerks, notaries, secretaries, *alcaldes ordinarios*,¹⁰ *regidores* and other officials of a minor category were investigated at the same time when a governor or viceroy was examined. The residencia of these dependents seems to have become more and more perfunctory as time passed and there was a tendency during the latter part of the eighteenth century to continue them in office, even without investigation. When, for example, Governors Basco

⁷This occasion was one on which the successor of a governor actually took his predecessor's residencia, owing, the commission said, to the distance and the irregularity of communication between Manila and Guam.

⁸*Recopilación*, 2-31-1. *Encomenderos* were persons holding lands and Indians, for a limited time, either as a reward of merit or as a business proposition, farming the lands or utilizing the mines on them, usually paying a stipulated revenue or rent to the government. See Montero Y Vidal, *Historia de Filipinas*, I, 42-43; Pardo de Tavera, *Philippine Census*, I, 330; *Recopilación*, 9-8, 9, 11; Helps, *Spanish Conquest*, I, 102 *et seq.* *Alcaldes mayores* and *corregidores* were provincial governors with executive and judicial powers.—Bancroft, *History of Central America*, I, 297; *History of Mexico*, III, 520, II, 329-330; Relation by Loarca, Blair and Robertson, I, 35-187.

⁹*Recopilación*, 5-15-17 to 18; 9-45-42.

¹⁰*Alcaldes ordinarios* were municipal judges and, usually, at the same time members of the municipal council (*cabildo* or *ayuntamiento*); *regidores* were members of the latter body without judicial powers.

y Vargas and Marquina gave up office this formality was omitted.¹¹ The practice of taking the residencia of the last group of officials was definitely abandoned on August 24, 1799, and a rigid inspection of their official acts by the audiencia was substituted.¹²

Officials were usually obliged to submit to residencia before leaving the colony and before their promotion to other posts.¹³ In the Philippines, however, owing to the paucity of ships plying to New Spain and the length of time elapsing between the sailing dates, officials could post bonds and leave before the residencia was completed. This was permitted only to men of good character, whose services had been uniformly satisfactory, destined to some other post wherein their services were indispensable. The investigation was then conducted in the absence of the official concerned.¹⁴

It was decreed by the *cédula* of December 30, 1776, that an annual deduction should be made from the salaries of governors and viceroys until sufficient money had been taken out to cover the probable costs and liabilities of their residencia.¹⁵ This was a special assessment, distinct from the *media anata* (which was a sort of an income tax), and the money deducted thereby was to be returned if nothing detrimental was proved in the residencia. The last year's salaries of *alcaldes mayores* and *corregidores* were withheld, pending investigation of their official conduct and a rendering of accounts of collections made by them.¹⁶ If an official were cleared of all guilt, the money which had been withheld was refunded, and the costs of the residencia were defrayed from the royal treasury.¹⁷ In case the official were found guilty of misconduct, he had to forfeit his deposits, back salary,

¹¹Having been excused by the *cédulas* of July 7, 1789, and January 15, 1795; A. I., 105-2-5.

¹²*Recopilación*, 5-15, notes 4, 11.

¹³*Ibid.*, 3-2-6. There were two kinds of bonds, those posted at the beginning of the term of office, and special bonds of residencia, given at the time of that investigation. The last mentioned were not required if the office were not a responsible one or if the charges were not sufficiently serious.

¹⁴*Ibid.*, 5-15-3; this *cédula* was annulled by that of May 21, 1787; see note to Law 3, same title.

¹⁵King to Basco y Vargas, A. I., 107-5-20.

¹⁶*Recopilación*, 8-26-42.

¹⁷*Ibid.*, 5-15-42.

bonds, and frequently he had to pay a large fine in addition. The amount of the penalty, of course, depended on the extent of the guilt. It may be said that in the Philippines the royal treasury suffered no serious embarrassment through having to bear the costs of residencia.

The judges of residencia who served as such in addition to their regular duties received an additional compensation which varied according to the place where the residencia was held, its distance from the capital and other circumstances.¹³ This was modified by a reform of the nineteenth century which awarded extra pay only in case the official were fined. This was intended, of course, to afford the examining judge a stimulating interest in the case. Still later the system of giving extra pay for the residencia was abolished.

Much contradictory legislation appears in the laws of the Indies in regulation of the method of taking residencias.¹⁹ This, of course, is because reforms were promulgated from time to time. We must remember that these laws were made for a growing empire. A chronological review of the laws referred to will show that the residencia was at first more or less an experiment. Indeed, the fact is too often overlooked that all the colonial institutions were in the early periods passing through experimental stages, and that the seemingly contradictory laws were enunciated and repealed in turn, according to the success or failure of the measures which were put into effect.

In illustration of the above characteristic of the laws of the Indies, we may note the *cédula* of December 4, 1630, which ordered that the residencia of a governor should be taken by his successor. This law was seldom, if ever, observed. Owing to the distance from Spain and Mexico, the time consumed in voyages, the unhealthy climate and the dangerous military campaigns in which the governors were compelled to engage, death frequently

¹³*Ibid.*, note 2.

¹⁹Sinibaldo de Mas, the able Philippine critic of the nineteenth century, says in regard to the above characteristic of the *Recopilación* and its laws, "since the laws of the Indies are not a constitutional code, but a compilation made in 1754 (a footnote amends this statement with the correction that the *Recopilación* was first made in 1681) of royal orders, dispatched at various epochs and by distinct monarchs . . . there results . . . a confusion of jurisdiction." De Mas, Blair and Robertson, LII, 70.

intervened before their successors could arrive. This, of course, did not prevent the residencia from being taken. These conditions, the same as prevailed in all of Spain's colonies, caused the above law to be modified by the *cédula* of November 28, 1667, according to which judges for the residencias of viceroys and presidents (governors and captains-general) were to be delegated by the king. The magistrate named was usually the senior magistrate of the audiencia. After 1776, the regent almost invariably conducted these investigations. The important reform of August 24, 1799, ordered that judges of residencia for governors, viceroys, presidents, governors-intendant, *intendentes-corregidores* and presidents of the Council of the Indies should be appointed by the king.²⁰

The first residencia to be conducted by the Philippines in accordance with the law of November 28, 1667, was that of Governor Salcedo in 1670. This governor had been removed by the commissioner of the Inquisition on June 30, 1668, and Francisco Coloma, the senior magistrate of the audiencia, was ordered to take his residencia.²¹ Coloma's intervention in the matter was protested by the audiencia in a letter to the Council of the Indies, dated April 7, 1670, on the grounds that Coloma was also the *asesor*²² and possible successor of the governor, and for that reason was legally incapacitated to take the latter's residencia.²³

The audiencia at the same time suspended the proposed action of Coloma, pending the reply of the Council of the Indies. In addition to the protest of the audiencia, the *fiscal*, on May 20,

²⁰*Cédula* of August 24, 1799, San Pedro, *Legislación Ultramarina*, III, 280-281.

²¹*Papeles relativos á la residencia del gobernador Salcedo, Inventario de Residencias*, A. I.; also A. I., 67-6-10.

²²Since all legal advice was furnished the governor by his *asesor*, Coloma would be examining his own acts.

²³The *fiscal* was the general prosecuting official; the *asesor* was the legal advisor of the governor, since the latter was usually a military official and knew nothing of legal matters. The *asesor* was held responsible for the legal and political decisions of the governor and the resultant consequences of the same. The *fiscal* gave legal advice to the audiencia, and in fact, to all other officials of the government, even including the governor at times. There were many bitter disagreements between the *fiscales* and the governor's *asesores*. In some provinces there were *tenientes asesores* or *tenientes-letrados* to advise the *alcaldes mayores* and *corregidores* in legal matters.

1670, sent a report of the case to the court.²⁴ The notes from Manila were effective in bringing about the desired results. Upon receipt of the communication, the Council of the Indies, on June 17, 1671, ordered the nullification of all former *cédulas* and cancelled Coloma's appointment to take the residencia in question, on the grounds that he had been the governor's *asesor*. Francisco de Montmayor, the *oidor* next in rank, was appointed to conduct the residencia of the governor.²⁵ Salcedo had already been dead three years, and two more transpired before his residencia was completed and the *autos* thereof reviewed by the Council.

During the first two centuries of Spanish rule in the Philippines the residencias of the governors were especially stringent, many of these officials suffering deprivation of office, imprisonment and exile. The families and dependents of some were reduced to the last extremes of poverty, while the victims themselves spent years in distant provinces, unable to defend themselves from their enemies. Many victims of residencia were purposely put aside in order that no appeal could be heard from them. One would occasionally find relief at last in a tardy pardon or in a modification of sentence, obtained through the influence of friends at home, when these latter could be reached, but more often death would intervene before the exercise of executive clemency or revision of sentence could be obtained.

The factors of petty spite, malice and personal ambition entered to an extensive degree in the rendering of testimony at a residencia. The governor, recently arrived in the colony, would be full of zeal and ardor to inaugurate a successful administration and make a good record for himself. The first duty that presented itself on his arrival was that of taking or supervising his predecessor's residencia. Frequently, before arriving at Manila, the new governor would be in full possession of a complete record of the misdeeds of his predecessor, and the residencia of the latter was a good as taken.²⁶ *Oidores*, merchants, *alcaldes*, treasury offi-

²⁴*Recopilación*, 2-18-27

²⁵*Cédula* of June 17, 1671, A. I., 67-6-10.

²⁶Officials, desirous of ingratiating themselves into the favor of the new executive, frequently journeyed by land and sea from Manila as far as the Straits of San Bernardino. The privilege of returning to Manila in company with the new governor was then gained, together with the oppor-

cials and churchmen, compelled to stand aside for a long period, to see a governor take his choice out of the best things and leave for them only the husks, were not slow in bringing charges at the official residencia.²⁷ A new governor, desirous of demonstrating his intention of starting an honest and vigorous administration, hearing nothing but evil of his predecessor, would naturally lend himself as an instrument of the desires of all malcontents. A *fiscal*, after spending six years in conflict with a governor, could be depended on to bring strenuous prosecution against him. A magistrate with enmity in his heart for the governor whose residencia he was to take, was no fit person to conduct an impartial investigation.

While, as a rule, the residencias of governors were arduous, due largely to the presence and hostility of the audiencia, that of Dr. Sande, the first governor to submit to this investigation in the Philippines, illustrates the evils of the residencia as conducted before the establishment of the audiencia. His successor, Governor Ronquillo de Peñalosa, conducted his residencia and sentenced him to pay a heavy fine, but he appealed the case to the Audiencia of Mexico, in which tribunal, meanwhile, he had been commissioned *oidor*. Ronquillo commented in no uncertain terms on the abject state into which the administration of justice had

tunity to poison his mind with tales and insinuations of the misdeeds of the incumbent and of the wealth which the latter had heaped up for himself through the exercise of dishonest methods.

²⁷The residencia of a governor presented a splendid opportunity to that official's enemies for revenge. A governor was always in a fair way to make enemies, and the latter usually awaited the residencia of their former oppressor with great eagerness. In case a governor did make fair profit out of his office, and there were many opportunities for profit, commercial and otherwise, legitimate and illegitimate (according to Zúñiga, *Estadismo*, I, 242, the emoluments of the governor, aside from his salary, aggregated 20,000 pesos a year), his enemies gave him no rest at the time of his residencia. It is probable that most of the governors were dishonest, as the opportunities for corruption were numerous. The temptations offered by the position were too strong for the powers of resistance of any human being. Thousands of miles from Spain, in an age of slow communication, entrusted with the assignment of all sorts of lucrative offices, *encomiendas* and commercial privileges, with friends, relatives and special interests to serve, a governor was surrounded by countless officials who were eagerly awaiting their share of booty, and who were ready at a moment's notice to turn traitor if they could gain by such an act. It may be said of the Spanish colonial governor as was said of Verres of old, that in stealing one must steal threefold, once for himself, once for his judge and once to pay the penalty.

fallen when a man could be promoted to a magistracy in a tribunal which was trying his own case on appeal.²⁸ However, after the establishment of the *audiencia* and until the close of the nineteenth century, the *residencia* went to the other extreme, and was, as a rule, extremely rigorous.

The *residencias* of subsequent governors were conducted in due form, however, as the defects referred to by Ronquillo were eliminated by the establishment of the *audiencia*. Thereafter, the magistrates conducted these investigations under the supervision of the new governor. An account of the *residencias* of all the governors of the Philippines and a statement of the fines imposed upon them would not necessarily subserve the purpose of this paper, which is designed to show the aims and methods of the investigation rather than to give a detailed account of what transpired. We may note, however, a few of the more typical ones which illustrate some characteristic or phase of the *residencia*.

Santiago de Vera, governor from 1584 to 1590, whose administration had been one perpetual struggle with the ecclesiastical authorities, was obliged to submit to a very rigorous *audiencia*. His chief accuser was his enemy, Bishop Salazar. Nevertheless, Vera was cleared and promoted to Mexico. Gómez Pérez and Luís Pérez Dasmariñas, successors of Vera and governors during the period when the colony was without an *audiencia* (1589-1596), were obliged to give *residencia* to Governor Tello in 1596.²⁹ The younger Dasmariñas was sentenced to a fine of more than 50,000 pesos.

Neither the death of Governor Tello in 1603, in office, nor that of Pedro Bravo de Acuña, in 1606, soon after the latter's return from a successful expedition to the Moluccas, excused those governors from the investigation, even though they were not personally present to answer for their misdeeds. They had both accumulated considerable property during their administrations through commercial ventures and, as a result, particularly of their favoritism to the Chinese, all their property was confiscated by the *audiencia*. The *residencia* of Acuña was taken and heavy penal-

²⁸Ronquillo to King, June 15, 1582, Blair and Robertson, IV, 310-311.

²⁹Gómez Pérez Dasmariñas died in 1593 and was succeeded as governor by his nephew Luís Pérez Dasmariñas; the latter was obliged to give *residencia* for his own and his uncle's administration.

ties were imposed upon his estate by Rodrigo de Vivero, who had been sent by the Viceroy of New Spain in 1608 to assume temporary charge of the government and to conduct the residencias of officials in the colony.

In 1625 Gerónimo de Silva, temporary governor, was imprisoned by the audiencia because he had failed to pursue the Dutch after their failure to take Manila in 1610. The real difficulty lay in the fact that Silva had incurred the enmity of the senior magistrate, who ultimately conducted the residencia. Silva's arrival in the Islands had deprived that magistrate of the command of the military and naval forces of the Islands.

Governor Corcuera, after nine years of successful rule, during which he distinguished himself in several campaigns of conquest, and incidentally aroused the hostility and jealousy of the *oidores*, was arrested on charges made by the audiencia on the arrival of Governor Diego Fajardo in 1644. An *oidor*, who was the personal enemy of Corcuera, was designated to conduct the residencia. The ex-governor was fined 25,000 pesos and was imprisoned five years while the magistrate of the audiencia delayed the transmission of the papers which would have permitted a rehearing of the case. At last his defense was sent to the Council, the fine was remitted, he was given salary for the period of his exile, and the post of governor of the Canaries was conferred upon him. Although the audiencia was responsible for the injustice in this case, Fajardo, as president and governor, was held answerable in his residencia for his conduct toward his predecessor.

Governor Lara, a placid and mild executive who terminated a successful administration in 1663, was forced to submit to a severe residencia on giving up his office, and was fined 70,000 pesos. He appealed to the Council of the Indies and the sentence was remitted.³⁰ We have already noted the residencia of Governor Salcedo in 1670. Governor Juan de Vargas Hurtado, incumbent from 1678 to 1684, was compelled to give an uncommonly hard residencia which lasted over four years, the trials of which so weakened him that he died at sea in 1690, en route to New Spain. His chief crime had been his opposition to Archbishop Pardo, and his accusers in the residencia were ecclesiastics. Governor

³⁰Zúñiga, *History* (English edition), I, 304; Montero y Vidal, *Historia*, I, 330-331.

Zabalburú, after eight years of distinguished service, was dismissed in 1709 for having received the French papal delegate, Tourón, in the Islands. The latter had been commissioned by the Pope, but had come without the authorization of the Council of the Indies. After his residencia had been taken, new charges were brought by the *fiscal*, and it was proved that he had been guilty of favoritism in the bestowal of a contract for the careening of the galleon. He was fined 11,000 pesos, which was the sum lost to the government through his act.³¹

Governor Bustamante was murdered in 1719. His successor, Governor Torre Campo, who came to the Islands in 1721, was ordered to investigate the cause of his death, but owing to the influence of the Jesuits, who seemed to have been responsible for the death of Bustamante, the matter was delayed. The government at Madrid was compelled to take the matter in hand, and, as a result, the governor finally made a noncommittal report, accusing nobody. The property of Bustamante was sequestered on his death, but the circumstances of his murder were so revolting that his case was not prosecuted, and the remaining portion of his property was sent to New Spain to his family.³²

When Governor Váldez y Tamón came to give residencia on the termination of his administration in 1739, he was charged by the *fiscal* with having made away with 2,500,000 pesos belonging to the government. It was not proved. It is unbelievable that any governor of the Philippines ever had a chance to appropriate that much money. Governor Obando, whose administration from 1750 to 1754 was a perpetual struggle with the audiencia and the archbishop, was severely treated by the residencia, which was conducted by his enemies, the *oidores*. Governor Arandía, who was said to have amassed a fortune of 250,000 pesos during his administration from 1754 to 1759, leaving his wealth to pious purposes on his death, was fined 6,713 pesos in his residencia.³³ Governor Raón, who had failed to properly execute the royal orders relative to the expulsion of the Jesuits and the Chinese from the Philippines, was heavily fined, his property was seized, and

³¹Torralba to King, June 23, 1716, *A. I.*, 68-4-18.

³²*Inventario de residencias, A. I.*

³³*Ibid.*

his family was reduced apparently to poverty.³⁴ From one account we learn, however, that Raón left to his family the sum of 500,000 pesos, all of which he obtained from the Chinese, from the merchants of Manila, and from the Jesuits for various favors.³⁵

Governor Simón Anda y Salazar, one of the most successful governors the Islands have ever known, was made to suffer from the personal malice of the *oidores* when he gave his last residencia in 1776.³⁶ Among the offenses which were proved against him was the exercise of prejudice in the residencia of Oidor Villacorta, which was conducted under his supervision. The residencia had been rigorous, due no doubt to personal enmity existing between the *oidor* and the governor, extending over a period of many years. Governor Anda was fined 4,000 pesos as a price for his excessive zeal in the prosecution of the residencia of his predecessor, Raón, who had friends in the audiencia to defend and champion his memory. Anda was also shown to have absolved certain officials of *real hacienda* (finance), permitting them to leave the Islands without the consent of the audiencia and before their obligations to the government had been settled. These and other charges were proved against him, and they were said to have caused his premature death in 1776.

Governor José Basco y Vargas, another very efficient executive,³⁷ but one who had been opposed throughout his administration by the audiencia, was heavily fined in 1787 by the *oidor* designated to conduct the investigation. The decision of the judge of residencia was reversed by the Council of the Indies, and Vargas' exceptional merits were recognized to the extent of his being appointed to the governorship of Cartagena, with the rank of rear-admiral. In taking the residencia of Vargas the audiencia

³⁴*Ibid.* Also Montero y Vidal, *Historia*, II, 254-255.

³⁵ Anda to Manuel de Roda (no date), *A. I.*, 106-4-22.

³⁶ Montero y Vidal, II, 257-258. Anda spent an earlier term of service in the Philippines. He first came to the islands in 1761 as *oidor*. He conducted the defense of Manila in 1763, acting as temporary governor, and was accordingly obliged to submit to residencia on giving up his office in 1764. His conduct was approved, and he received high honor and promotion at the court, being advanced to membership in the Council of Castile.

³⁷ Basco y Vargas occupies much the same position in the history of the Philippines as does Josef de Gálvez in that of New Spain. It was he who recommended and inaugurated in the Philippines the reforms of the intendancy in 1785-7.

disagreed so completely that the tribunal was obliged to resort to the exceptional extreme of appointing a churchman as arbiter.³⁸ Fray Gerónimo Caraballo, the curate of Quiapo, was designated for that duty.

Aside from the above references to notable cases of governors' residencias in the Philippines, it would seem appropriate to make a detailed study of at least one governor's residencia, in order to note the method and actual practices connected with one of these investigations. We may select for this purpose the residencia of Felix Beringuer Marquina, which was the last to be conducted under the old laws, and accordingly the last of the severe residencias.³⁹

As governor and superintendent of *real hacienda*, Marquina had assumed such power as probably no other governor of the Philippines ever exercised. He was opposed at every turn by the audiencia, and probably no governor had so many of his measures vetoed or opposed by the home government as did Marquina. The *fiscal* and *oidores* brought many charges against him during his administration, and these finally culminated in the royal order of February 19, 1792, before the expiration of his term, for the taking of his residencia. The regent, Agustín de Amparán, was put in possession of the special charges which had been made against the governor. According to these he had been careless in defending the Islands against the Moros; the latter had raided, insulted and robbed the settlements throughout the Islands with impunity, and no effort had been made to check their advance. The governor had transgressed in numerous instances upon the sphere of the audiencia and had substituted his own authority for that of the tribunal. He was said to have been guilty of immoral relations with certain Spanish women of the colony, having deliberately and maliciously separated an intendant from his wife

³⁸*Inventario de residencias, op. cit.*

³⁹This residencia was held in accordance with the laws which had prevailed throughout the seventeenth and eighteenth centuries. Characteristic of them, particularly, was the fact that the regent, or some other colonial magistrate, conducted the investigation and rendered sentence. The latter might be appealed to the Council of the Indies. This gave an opportunity for great injustice to be done to the governor by his enemies, and it did not give him an impartial hearing. The laws of 1799 still permitted a local magistrate to collect the evidence, but the decision was rendered by the Council of the Indies.

on one occasion by ordering the former to a post of duty where no woman could go. He had amassed a great fortune through trade and by diverting the proceeds of the royal revenue to his own private advantage; he had permitted merchants to conduct business without proper licenses; he had allowed foreign traders to remain and thrive in Manila under conditions forbidden by law.⁴⁰ These and many other accusations were brought against Governor Marquina in his residencia. They may be considered as typical of those usually brought against governors on such occasions.

Amparán was ordered by his commission to have Marquina retire to some spot outside Manila, where he could not interfere with the residencia, but whence he could be summoned at any time to give testimony in his own behalf.⁴¹ The regent was instructed to ascertain of the treasury officials whether it would be necessary for Marquina to post more than the usual amount of bonds in view of the grave charges made against him.⁴² In pursuance of these arrangements, Marquina was relieved of his office in September, 1792, and was sent to Laguna de Bay, about thirty miles from Manila. After five months' delay, the investigation was begun and it was concluded by July 22, 1793. However, Aguilar, the new governor, intervened and suspended the sentence on the grounds that Marquina had not been given sufficient opportunity to defend himself. Up to this time Marquina had not testified directly. Aguilar ordered that the ex-governor should be brought to Manila and that a lawyer should be appointed for his defense. This was done and the charges which had been made against him were duly answered. This evidence could not be incorporated into the official papers of residencia, however, for the latter had been finished and closed by the regent. Marquina's testimony was forwarded to Spain under separate cover.⁴³

⁴⁰Audiencia to King, June 28, 1791, *A. I.*, 108-4-18.

⁴¹Instructions to Amparán, February 19, 1792, *A. I.*, 105-2-10.

⁴²It seems that the law, already cited, which had required an annual deduction of one-fifth of the governor's salary to cover residencia, had been abrogated by the royal order of February 13, 1782; hence there was some apprehension lest Marquina had not deposited sufficient money.

⁴³The just and honorable conduct of Marquina's successor on this occasion may be contrasted with that of his predecessors, whose unfairness, bigotry and stupidity had caused governors Corcuera, Silva and Torralba, victims

The *autos* of Marquina's residencia, as formulated by the regent of the audiencia, arrived before the Council of the Indies in due time, together with Marquina's defense, which had been sent separately. The glaring injustice of the investigation as conducted by Amparán and of the official evidence transmitted was evident at once to the *fiscal* of the Council. He refused to receive any testimony that was not incorporated into the official papers of the case. Marquina was allowed a retrial by the Council. This resulted in a further delay of three years, during all of which, except for the time he spent in Manila giving testimony in his second residencia, which was taken under the supervision of Governor Aguilar, Marquina remained in the province. Shortly after his second trial Marquina was transferred to Mexico, but he was obliged to deposit an additional 50,000 pesos before his departure from Manila.

In the ultimate judgment, Marquina was pronounced guilty of many offenses in addition to those mentioned in the charges outlined in a former paragraph. He had shown favoritism in the dispensation of official favors; he had authorized the expenditure of public money for private purposes; he had neglected defense and agriculture; he had been careless in the supervision of the various departments of *real hacienda* and particularly of tobacco. He had infringed on the jurisdiction of the royal audiencia. He had indulged in private trade and had granted special favors to foreign merchants.⁴⁴ The regent fined him 40,000 pesos outright and condemned him to pay into the royal treasury an additional sum of 16,000 pesos to cover certain illegitimate profits which he had made through granting unlawful trading concessions to an Armenian merchant. This sentence was not executed immediately, as it had to be confirmed by the Council of the Indies. On

of residencia, to be seized, imprisoned and exiled without opportunities for defense, while their investigations were being conducted. This case serves well to illustrate the fact that by the close of the eighteenth century the residencia had grown more humane.

⁴⁴He was charged with having entered into a conspiracy with an Armenian merchant to secure trade which should have gone to Spanish merchants. In this particular venture he had made profits of 16,000 pesos and in doing so not only had he violated the laws of the Indies which forbade governors to trade (*Recopilación*, 2-16-54, 62), but he had connived at the infraction of another law which forbade foreigners to trade (*Ibid.*, 6-15-91).

review of the findings and recommendations of the regent, the Council declared that since the proceedings at the trial of Marquina had been irregular and the governor had been greatly inconvenienced already by the slow process of the courts, the fine imposed by the judge of residencia in Manila should be reduced to 2,000 pesos. Marquina, writing from Mexico, asked to have the fine remitted, but the Council denied his petition, declaring that he had been treated with great consideration and mercy already and that nothing more could be done in his behalf, especially since he had not been adjudged innocent of the charges made against him.⁴⁵

Marquina's trial illustrates all of the characteristics, delays, terrors and ramifications of a typical governor's residencia in the seventeenth and eighteenth centuries. Continual complaints against him caused Marquina's residencia to be taken before the expiration of his official term. The regent of the audiencia was commissioned by the court to conduct the investigation (because Marquina's successor had not arrived). That magistrate was prejudiced on account of his having witnessed the governor's continual malfeasance in office. He was unable to conduct an impartial investigation, nor would the audiencia, likewise prejudiced, intervene in behalf of the ex-governor. The wrongs done to Marquina in his trial were so patent that the Council of the Indies ordered a new hearing. A severe sentence was finally passed by the judge in Manila, but it was modified by the Council of the Indies through considerations of mercy. The residencia occupied ten years, and during the greater part of that time the ex-governor remained in exile, a victim of his own misdeeds, the faulty residencia system and the hostility of the audiencia. The customary severity of the residencia was only mitigated in this case by the presence of an impartial governor, who, unlike most governors, sought to secure a fair trial for his predecessor. To accomplish this, he was obliged to work in opposition to, rather than in cooperation with, the audiencia.

The above-described method of conducting the residencia of

⁴⁵It is an interesting commentary on the Spanish governmental point of view that, notwithstanding Marquina's misgovernment in the Philippines, he was promoted to the post of Viceroy of New Spain, which place he held from 1800 to 1803.

governors, presidents, viceroys and superintendents was modified, as already mentioned, by the reform of August 24, 1799. The new law provided that the court, instead of the new governor, should appoint the examining judge. The latter was no longer endowed with authority to pass sentence, but was ordered to remit the *autos* of the case to the Council of the Indies for final determination and sentence.⁴⁶ Again, on March 16, 1797, the royal order of December 30, 1777, was re-enacted and the practice was revived of deducting annually one-fifth of the salaries of officials whose incomes were 8,000 pesos a year or more.⁴⁷ This law was again promulgated on January 18, 1848. Its purpose was to secure the retention of a sufficient sum of money to guarantee all losses incident to the residencia. It apparently continued in force until July 7, 1860, when governors and captains-general were declared exempt from these discounts.⁴⁸

It has already been stated that the residencias of provincial judges and governors, *alcaldes ordinarios* and treasury officials were taken by judges appointed by the president of the audiencia (the governor), with appeal to the tribunal. These cases, under certain circumstances, might be carried on second appeal to the Council of the Indies. There were some variations in the laws regulating these matters, but a general principle seemed to have been followed of granting jurisdiction over the residencia of an official to the authority which appointed him.⁴⁹ So we have the Council of the Indies exercising final jurisdiction over the residencias of viceroys and captains-general, and the governor and audiencia over those of the minor officials of the colony. Neither

⁴⁶*Recopilación*, 5-15, notes 4 and 5.

⁴⁷Reales resoluciones del consejo de 4 de Marzo de 1794, *A. I.*, 106-4-18; Royal Order of January 18, 1848, San Pedro, *Legislación Ultramarina*, I, 290.

⁴⁸These discounts were "considered subversive of their authority (that of the governors); . . . the best guarantee of their acts is not a discount of some thousands of pesos, which is always penurious when compared with the honor and dignity of the persons called, on account of their elevated character and distinguished services, to hold these posts; and if, in former times, this practice had some foundation in the tardiness of communication between the Peninsula and these provinces, it does not exist today in view of the frequency of communication which enables said authorities to consult with the government of her Majesty in all the steps which are considered necessary in the territory of their command."—Royal Order of July 7, 1860, San Pedro, *Legislación Ultramarina*, I, 287.

⁴⁹*Recopilación*, 5-15-4.

the governor nor the audiencia was to have complete authority in the matter, but each should participate, the audiencia assisting in the determination of whether the case merited investigation, and the governor making out the commission and appointing the judge if an investigation were decided on. The audiencia alone, was authorized to appoint judges of residencia for judicial officials only.⁵⁰ It was forbidden to interfere in the residencia, itself,⁵¹ although this prohibition did not prevent the tribunal from reviewing the *autos* of residencia in second instance.

The length of time consumed in all the residencias except those of viceroys and governors was four months. For the latter the *cédula* of December 4, 1630 authorized a period of six months. These investigations were divided into two parts. During the first half, edicts or notices of residencia were posted throughout the district of the official concerned. These were printed in Spanish and in the common dialect, so that natives and others might read and know that the official was giving up his post and that charges might be brought against him, setting forth any misconduct, undue harshness, tyranny or dishonesty of which he had been guilty during his term of office. These notices invited them to register any charges which they might wish to make and gave them sixty days in which to do it. At the close of this period the judge of residencia opened an investigation in the town wherein the official under examination had resided (usually the capital of the colony or the chief town of the province). The actual trial of residencia might consume sixty days, or it might be prefatory in its character and occupy a much shorter period, the entire question of time depending on the amount of evidence presented against the retiring official. On the other hand, as we have seen, the residencias of some governors occupied ten years. If the judge were taking a residencia in the provinces he was frequently delayed in arriving at his post, owing to the press of other business or the uncertainty of transportation facilities. In that event, perhaps he could not open the judicial investigation until the allotted time had already passed.

In the trial, two distinct lines of investigation were usually

⁵⁰*Ibid.*, 7-1-16; 5-15-21.

⁵¹*Ibid.*, 2-2-53 and 54.

pursued: (1) Charges which had been made against the official were investigated, and (2) the records of his office were examined. The discovery was frequently made by the latter proceeding that the official had made away with money belonging to the government. The enquiry might show that he had been careless in the execution of the duties of his office, remiss in his attention to *encomiendas*, particularly neglecting the Indians thereon, or that he had been too ignorant or incompetent properly to try, record, and transmit the *autos* of the cases which had come before him in first instance. These defects might not become apparent until they were revealed in this examination.

The judge of residencia would seem to have been well occupied during the time he was conducting the investigation. He received and reviewed all charges made. In addition to auditing the records of his office, he had to pursue enquiries as to the truth of these charges. He examined witnesses both for and against the defendant and was supposed to give the official under investigation every opportunity to defend himself. He was relieved, however, of the trouble and responsibility of checking up the financial accounts of officials under residencia. This important matter was turned over to the treasury officials, who ascertained shortages, and held the bondsmen of the official under investigation responsible.⁵² The judges of residencia and the *oidores* making investigations and reviewing cases of residencia were ordered to confine their examinations to "criminal and legal matters and charges which result against those under residencia."

After all the evidence had been taken and the case had been duly tried, the judge of residencia was authorized to render sentence. Sentences were executed by the examining judge if the penalty did not exceed a fine of twenty-five thousand *maravedís*.⁵³ Such cases were not appealable. If the fine were less than two hundred ducats and the defendant desired to appeal, he was obliged to pay the fine or deposit the amount. His case would then be reviewed by the audiencia, and in order to effect this, notice of appeal had to be submitted in sufficient time to permit

⁵²*Ibid.*, 8-1-28; 5-15-35. Heavy penalties were imposed upon those who offered insecure financial guarantees (*Ibid.*, 5-15-33 to 36).

⁵³About 55 pesos.

the record of the entire case to be committed to writing. If, on reviewing the case, the *audiencia* found that the defendant was guilty of the charges brought against him, the money taken as a fine or on deposit was restored. If the amount of the fine exceeded two hundred ducats, or if the defendant were convicted of serious crimes, the judge was authorized to take the proper and necessary steps for the detention of the prisoner and the seizure of his property, pending a new trial in a higher tribunal.⁵⁴ Cases involving more than one thousand pesos could be carried to the Council of the Indies.

A thoroughly typical case, illustrating all of the steps in the *residencia* of a provincial official, was that of Francisco Fernández Zéndera, *alcalde mayor* and military captain of the province of Ilocos.⁵⁵ It was investigated first by a judge appointed by the *acuerdo* of the *audiencia*; it was reviewed by the *audiencia*, and it was finally carried to the Council of the Indies. It was characteristic in another sense: namely, that twelve years transpired before the matter was settled.

After Zéndera had occupied his post three years, complaints against him were brought to the attention of the *fiscal*. The latter, in his capacity as prosecuting official and as protector of the Indians, made a motion before the *audiencia* in *acuerdo* that a judge of *residencia* be sent to conduct an investigation of Zéndera's official conduct. The following complaints against the latter had been sent to the governor and on the basis of these the *fiscal*, governor and *audiencia* decided to conduct the investigation. First, Zéndera had compelled the natives to work for him on his own estates, building houses, granaries, fences, bridges, tilling the soil and planting and harvesting crops,—a species of slavery. From two to three hundred men had worked for him continually, without pay or food. Second, the arbitrary methods of this *alcalde mayor* left the natives without money with which to buy their food or to pay their tribute. Third, not only were the men forced to labor, but the native women were obliged to

⁵⁴*Ibid.*, *ley* 39; 2-16-46.

⁵⁵Expediente de Don Frco. Fernández Zéndera, *alcalde mayor* y capitán de guerra de la provincia de Ilocos, . . . su *residencia* pendiente de informe de la *audiencia*, 1794, *A. I.*, 106-5-4 and 5. The papers relating to this trial easily aggregate 4000 pages.

sew, spin and embroider without pay and the product of their labor was confiscated by the *alcalde mayor*.

The audiencia and the governor, having taken note of these charges as prescribed by law, commissioned Angel Moguel, chief secretary of government, to conduct the residencia of the *alcalde*. Moguel was put in possession of the necessary documents and departed at once for Vigán, the chief city of the province. On November 7, 1782, he posted notices to the effect that Zéndera's residencia was to be taken, calling on the residents to make formal charges against him. Moguel suspended Zéndera from office and accepted 20,000 pesos from two of his friends as bonds to cover the residencia, this sum offsetting the valuation of the properties for which Zéndera was responsible. These were additional to other bonds which Zéndera had posted on his accession to office.

For some unassigned reason, probably because of the lateness of Moguel's arrival, only twenty-five days were allowed for the filing of complaints, but during this time eighty-eight charges were made, most of which were variations of those mentioned above but differing in their official character in that they formed a part of the residencia itself. Zéndera was said to have been unpromising in his administration of justice; he had imposed excessive fines; he had imprisoned the natives without giving them opportunities for defense; he had refused to allow them to appeal their cases.⁵⁶ Not being a lawyer, he had lacked sufficient qualifications for the proper conduct of trials, and he had refused to employ a trained legal assistant (*teniente-asesor*). He had failed to supervise or enforce the instruction of Spanish and he had done nothing to assist in the education of the natives, as he was required by law to do. Zéndera was charged with having suppressed all commerce except his own, going so far as to arrest merchants of other provinces who had come to Ilocos to trade.

⁵⁶It was said that he had shown favoritism in his dealings with some of the *barangay* chiefs, allowing them unbridled license in the collection of tribute and in the enforcement of compulsory labor, most of which they utilized for their own or for his benefit. One chief was said to have gone so far as forcibly to take carabaos from the natives when the latter were working them in the fields. Zéndera had, of course, extended favors to these *barangay* chiefs in exchange for reciprocal advantages. (The *alcaldes mayores* ruled the native population through these chiefs at this time. They also utilized the *gobernadorcillos*, native or *mestizo* governors of the small towns.)

This he had done in order to secure his own monopoly in commercial matters within the province. He had, moreover, suppressed the trade of the neighboring tribe, the Igorrotes, with the Ilocanos. He had failed to segregate the men from the women in the provincial prison. It was said that he had neglected to publish the governor's edicts (*bandos*) from Manila. He had shown partiality to Spanish priests in preference to the native clergy. He was charged with having taken rice as tribute at a low price, turned it over to the treasury officials at a high rate, thereby having made great profits for himself.

Zéndera was found guilty of almost every charge made against him. The sentence of *residencia* was pronounced by the judge commissioned for the purpose on August 13, 1782. The defendant was fined 8,000 pesos and sentenced to deprivation of office for a period of five years. The *audiencia*, in turn, reviewed the case and that tribunal, on May 20, 1783, ordered Moguel back to Vigán for a second time to complete the investigation. The judgment of *residencia* after this second investigation was the same as before, and the case was carried to the Council of the Indies on November 7, 1785. It seems that the *audiencia* had been slow in granting the appeal, for on February 19, 1788, a *cédula* ordered the *audiencia* to forward all *autos* in its possession bearing on the case. The final judgment of the Council of the Indies was rendered March 23, 1794. The fine of 8,000 pesos was reduced to 3,000 and the sentence to deprivation of office was remitted altogether.⁵⁷

The *cédula* of August 24, 1799, already referred to, greatly altered the applicability of the *residencia* of provincial officials. Its greatest importance consisted of the fact that it authorized investigations only when charges were made, otherwise it was assumed that the conduct of officials had been satisfactory, and accordingly no *residencia* was held. Before officials were transferred to other posts they were obliged to show certificates of clearance from former positions. The *audiencia* was given final

⁵⁷The original sentence probably denied to Zéndera the privilege of holding the office of *alcalde mayor* only, since he occupied the post of *regidor* of the city of Manila pending the appeal of his case to the Council of the Indies. It is evident, therefore, that the sentence which was pronounced upon Zéndera did not apply to all positions of honor and trust.

jurisdiction over the residencias of *corregidores*, *alcaldes mayores* and subdelegate intendants, with inhibition of appeal. At the same time the tribunal was denied jurisdiction in any instance over the residencias of viceroys, superintendents, captains-general, presidents, governors, treasury officials, *oidores* and intendants.⁵⁸ After the suppression of the Council of the Indies on March 24, 1834, the latter cases were finished in the Supreme Tribunal of Justice, and that tribunal continued to exercise this jurisdiction until the close of the nineteenth century.⁵⁹

The *cédula* referred to above abolished the residencias of *tenientes-letrados* (*asesores*), *alcaldes ordinarios*, *regidores*, clerks, procurators, *sindics*, *alguaciles* and other minor officials. In place of the formal investigation and judgment after the term of office was completed, the *audiencia* was given greater control over their official acts, with the duty of seeing that justice was administered, jails inspected and kept clean, prisoners given a speedy trial and not molested with undue exactions. The tribunal was also empowered to see that the municipalities conducted their elections impartially, and that the municipal officials, including the police, executed their duties faithfully. In this, the formal investigation at the close of the terms of these minor officials was replaced by a more efficient supervision by the *audiencia*, which was calculated to act as a preventive of the ills which had formerly been avenged, too late, by the *residencia*. The constitutional reforms of the nineteenth century gave to the *audiencia* original jurisdiction over the trial of judges of first instance with appeal to the Supreme Tribunal of Justice. This regulation was abolished in 1815, but was restored in 1835, after which date this authority remained to the *audiencia*.

Although the reform of August 24, 1799, recognized the residencias of *alcaldes mayores*, *tenientes* and *corregidores*, merely transferring jurisdiction over these to the *audiencias*, it would seem that this investigation retained less of its former severity from this time onwards. In fact, some authorities infer that the

⁵⁸*Cédula* of August 24, 1799, *Recopilación*, 5-15, notes 4 and 5; see also San Pedro, *Legislación Ultramarina*, I, 282.

⁵⁹Escríche, *Diccionario*, I, 578; see also Royal Order of November 20, 1841, and of January 18, 1848, San Pedro, *Legislación Ultramarina*, I, 280 *et seq.*

residencia was abolished after 1799.⁶⁰ This was not the case, however, as the residencia was recognized by laws as late as 1870.⁶¹

The residencia was essentially a Spanish institution. Its principles were inherited from the Romans. It was adapted through three hundred years to the needs of a vast colonial empire. It cannot be said that it was a success. Its purpose was to deter government officials from abuses rather than to inculcate a sincere desire on their part to fulfill the duties of their offices conscientiously and justly. The necessity for the residencia would have been eliminated by a more careful selection of men for offices. The residencia was the culmination of a period of service in an office which had been purchased, usually, and which was not regarded as an opportunity for service but as a means of yielding the greatest possible profit to its holder. Aside from the obvious defects of such a system, the residencia came too late in the period of service, held as it was at the end of the term. It sought to punish offenders and correct evils rather than to prevent them. This was the most serious fault of the residencia.

⁶⁰Alcubilla (*Diccionario*, XI, 477) and Escriche (*Diccionario*, II, 819) state that the *cédula* of August 24, 1799, abolished the residencia. The last mentioned authority states that the residencia had proved to be a grave infliction on the towns; the judges had mistreated witnesses and defendants on many occasions, and it was thought advisable to discontinue the practice of holding these investigations. On the other hand, Escriche quotes extracts from the laws of August 24, 1799, September 26, 1835, and November 20, 1841, wherein were provided regulations for the future continuance of the residencia.

⁶¹See *cédulas* of July 7, 1860, San Pedro, *Legislación Ultramarina*, III, 286; Royal Order of July 25, 1865, *Ibid.*, X, 99; Royal Order of October 25, 1870, *Colección Legislativa*, CV, 442-465.

THE POWERS OF THE COMMANDER OF THE CONFEDERATE TRANS-MISSISSIPPI DEPARTMENT,
1863-1865

FLORENCE ELIZABETH HOLLADAY

1. *The Organization of the Trans-Mississippi Department*

During the last two years of the war of secession, the situation in that part of the Confederacy which lay west of the Mississippi was without a parallel in the history of modern warfare. A vast territory, thinly populated, undeveloped, practically without railroads, cut off from its principal source of military supplies, having but precarious and infrequent communication with the general government to which it must look for direction in the desperate struggle for independence, it was thrust back upon its own resources and forced to acquiesce in a governmental arrangement of an unusual design. By common consent, under pressure of necessity, a military chieftain assumed the functions, in large part, of the president and cabinet and attempted to carry on the government under constitutional forms without resort to martial law. The conditions which brought about this extraordinary situation, the problems which beset the head of this government, the functions which he assumed and exercised, and the relations which he sustained to the local civil governments and to the distant and all but inaccessible government at Richmond, constitute an important but hitherto neglected part of the history of the Confederacy.

Though the Confederate government was organized quickly, it was hardly in operation before the war was in actual progress. Among the many questions which pressed upon the Executive and Congress was that of the organization of military departments. At first the territory west of the Mississippi was divided into several departments; then it became a district, the Trans-Mississippi, of the Western Department.¹ This district was too large

¹*Official Records, War of Rebellion*, Series I, Vol. VII, 826. Hereafter in this paper these Records will be referred to as *Off. Recs.*, and when Series I is cited, no series number will be indicated. The volumes will be referred to in large Roman, the parts in small Roman, and the pages in Arabic.

for effective administration, however, and in May 1862, it was erected into the Trans-Mississippi Department, which was composed of the districts of Arkansas and Texas. The Arkansas district, which included Arkansas, Missouri, and that part of Louisiana lying north of the Red River, was placed under the command of Major General T. C. Hindman; while the Texas district, consisting of Texas and the remainder of Louisiana west of the Mississippi River, was assigned to Major General P. O. Hébert.² There was strong objection in Louisiana to this arrangement since it divided the state between two districts and gave it adequate protection in neither. The protests which were made to the President by state officials³ and the steady advance of the Federals on the Mississippi probably led to the next change. In July Major General T. H. Holmes was sent to command the Trans-Mississippi Department. He made Louisiana a separate district and assigned Major General Richard Taylor to command it. The Indian Territory was added to the Arkansas District and Arizona and New Mexico to that of Texas.⁴

During the first two years of the war, Galveston and minor posts in Texas had been captured and retaken; New Orleans and much of the coast country in Louisiana had been seized; Missouri had been overrun; and the Confederate forces in Arkansas had lost control of the Mississippi and had been driven south of the White River. The greater part of this department had been untouched by invasion, but the continued advance of the Federals on the Mississippi threatened the separation of the west from the east. These disasters aroused the people everywhere. In the west especially the feeling became intense. Soon after the fall of New Orleans, leading men began to urge the officials at Richmond to make arrangements by which this department could be maintained and protected if the river should be lost. Guy M. Bryan of Texas, May 2, 1862, urged upon the congressmen from his state that the government send representatives of the war and treasury departments west of the Mississippi. Governor Moore of Louisiana, two days later, telegraphed the President that if the

²General Orders No. 39, War. Dept., May 26, 1862, *Off. Recs.*, IX, 713; General Orders No. 1, [Hébert] June 18, 1862, *ibid.*, 719.

³Moore to Randolph, July 25, 1862, *Off. Recs.*, LIII, 819.

⁴General Orders No. 5, August 20, 1862, *ibid.*, IX, 731.

river should be lost the military operations west of the Mississippi would have to be independent of those east of it and that the general in the west must be invested with plenary powers.⁵ In some parishes and counties of Louisiana and Arkansas a condition little short of anarchy prevailed. By the fall of 1862, some parts of both Texas and Arkansas had been illegally placed under martial law. The organization of the department was loose and ineffective. The Arkansas delegation in Congress sent a memorial to the President asking that abuses in that state be corrected and that General E. Kirby Smith be sent to command the Trans-Mississippi Department. One after another these reports piled up evidence of the demoralization in these states. Actuated by these demands, by apprehensions of the loss of the river, and by the necessity of strengthening the military organization of the department, the President, February 9, 1863, gave orders for the unification of the department and assigned E. Kirby Smith to its command.⁶

General Smith assumed command of the department, March 7, 1863, and after a short time, made Shreveport, Louisiana, his headquarters. For a time he continued the districts as they had been organized—Major General Richard Taylor in command of Louisiana, Major General Magruder in Texas, and Major General Holmes in command of the district of Arkansas.⁷ A vigorous policy was attempted. Strenuous efforts were made to change raw troops into an efficient army, to consolidate or distribute the means

⁵*Off. Recs.*, LIII, 804, 805.

⁶General Orders No. 1, March 7, 1863, *Off. Recs.*, XXII, ii, 798. See also Davis to Holmes, February 26, 1862, *idem*, LIII, 849-850, and Davis to Garland, March 28, *ibid.*, 861-863.

Edmund Kirby Smith, a native of Florida, was educated at West Point and in 1845, was assigned to the infantry. He fought under General Scott in the Mexican War and was promoted to the rank of First Lieutenant, then to that of Captain. After the war he taught mathematics at West Point till 1852, when he was sent against the Indians on the Texas frontier. When Florida seceded, he resigned his commission in the United States army and entered the Confederate service as lieutenant-colonel. During the first two years of the war, he was promoted step by step to the rank of lieutenant general, and in 1864, he attained the rank of general. During the last two years of the war his life was closely interwoven with the history of the Trans-Mississippi. At his death in 1893 he was professor of mathematics in the University of the South, at Sewanee, Tennessee.

⁷Major General Magruder had succeeded Major General Hébert in the fall of 1862. *Off. Recs.*, XV, 826, 880; XXIII, ii, 803.

at hand for the best results to the service, to instill confidence into the troops, to secure the support of the people, and to initiate a policy that would make the department self-sustaining.⁸

The government, busy with its organization, its many perplexing problems, and the fiercer struggle raging nearer Richmond, had failed to provide for this remote department. When at last, in the spring of 1863, it realized the disastrous consequences of this short-sighted policy and attempted to avoid the embarrassments which the previous neglect had already brought about, it was really too late, for the commanding general was never able to overcome the handicap nor to avoid the injuries which resulted from this earlier inattention to the affairs of the Trans-Mississippi region.

2. *The Commander and the State Authorities; the Marshall Conference.*

General Smith early realized that the isolation of his department and the unusual responsibilities which devolved upon him would force him to assume functions not ordinarily exercised by military officers under a constitutional government. Shortly after the fall of Vicksburg he wrote to the war office at Richmond:

"Without the assumption of extraordinary powers, my usefulness as department commander will be lost. If possible, instructions and orders to meet this emergency should be sent by special messengers. . . . I feel I shall now be compelled to assume great responsibilities, and exercise powers with which I am not legally invested. . . . I entreat him [the President] to send heads of departments west of the Mississippi, with extraordinary powers for the organization of a government."⁹

⁸Seddon to Davis (annual report) November 26, 1863, *Off. Recs.*, Series IV, Vol. II, 1016.

The Trans-Mississippi Department included an area of approximately 735,000 square miles. Its population, exclusive of Indians, was, in 1860, about 2,728,870. The white male population of military age, from 18 to 45 inclusive, was, exclusive of those in the territories, approximately 500. (This area is computed from Redway and Hindman's *Natural Geography*. The population is taken from the *United States Census Report for 1860*, but the division of the state of Louisiana and the failure of some counties to report the census at that time make it impossible to get very accurate figures.)

⁹Smith to Cooper, July 28, 1863. *Off. Recs.*, XXII, ii, 949.

Despite these and other urgent messages, the Federals were in full control of the Mississippi before any response came from Richmond. By this time the people in the west were in the depths of despondency and mutterings against the government were heard from disaffected spirits. There were rumors that the states of this department would secede from the Confederacy. General Smith, realizing the danger in this crisis and fearing that this spirit of despondency and hopelessness might lead to measures harmful to the department and to the Confederacy, had sent a circular letter, July 13, to the governors of the four states of his department asking them, with the judges of their Supreme Courts, to meet him in a conference at Marshall, Texas, August 15, 1863. His purpose, as he stated it, was to acknowledge the civil government supreme over the military; to invoke the power of the states to aid him; to try to make the people feel that a government remained to them capable of administering to their wants and necessities; and to secure the confidence, advice, support, and co-operation of the leading spirits and judicial minds of his department.¹⁰

Before time for the conference to assemble, the commanding general's position was greatly strengthened by suggestions from Richmond that he follow the very policy he had already entered upon. On almost the same day that General Smith had sent out his invitations to the conference, the President wrote advising him to explain so much of his plans to the governors as would prevent them from misconstruing his actions, and to confer with them, thus making them "valuable coadjutors without surrendering any portion of the control necessary for a commander to retain." Secretary Seddon also recommended, July 14, that he call to his aid the ablest and most influential men of the country, and that he establish a civil and a military government for the department.¹¹

In answer to the commander's call, a group of prominent men gathered in Marshall, August 15, 1863. From Arkansas, came Robert W. Johnson, who represented Governor Flanagin, C. B. Mitchell, and W. K. Patterson; from Louisiana were Governor Thos. O. Moore, Colonel T. C. Manning, W. Merrick, and Albert

¹⁰*Off. Recs.*, XXII, ii, 935-936.

¹¹*Off. Recs.*, XXII, ii, 926, 1004.

Voorhies; from Missouri, Governor Thomas C. Reynolds; from Texas, Governor F. R. Lubbock, W. S. Oldham, Colonel Pendleton Murrah, and Guy M. Bryan. These were all men of ability who possessed the confidence of the people of their respective states; and there is no doubt but that their recommendations had great weight with the authorities at Richmond in determining the best means of administering this detached department.

At this first meeting, General Smith submitted the recent letter from the Secretary of War and asked the conference to consider the following questions:

"1st. The condition of the states since the fall of Vicksburg; the temper of the people; the resources and ability of each state to contribute to the cause and defense of the department, and the best means of bringing into use the whole population for the protection of their homes.

"2d. The best means for restoring confidence, checking the spirit of disloyalty, and keeping the people steadfast, in the hope of the ultimate triumph of our arms.

"3d. The question of the currency, and the best method of securing the cotton of this department without causing opposition on the part of the people, and the best method of disposing of the same.

"4th. The extent of the civil authority to be exercised, referred to in the letter of the Secretary of War, July 14.

"5th. Appointment of commissioners to confer with French and Mexican authorities in Mexico.

"6th. Arms and ordnance stores."¹²

The conference was organized for business August 17, with Governor Francis R. Lubbock as chairman and W. K. Patterson as secretary. Committees were appointed to consider the questions submitted by the commanding general. The next morning the conference assembled to hear the reports of its committees. Judge Merrick made the report for the committee which had under consideration the extent of civil power to be exercised by the commanding general. The report, which was unanimously adopted, recommended that only such powers should be exercised by the commanding general as were then exercised by executive officers

¹²The above and all reports of the conference are found in *Off. Recs.*, XXII, ii. 1004-1009.

at Richmond, for, on account of his inability to communicate with Richmond, these were absolutely necessary in order for him to augment his army and put the department in the best state of defense; that such powers, which had not been granted by act of Congress to any general in the army, were only powers of administration, and should be exercised according to existing laws; that nothing should be changed except the agents by which the operations of the government in this department are carried on. Extreme caution on the part of the committee is shown by reference to the fact that no act of Congress authorized such assumption of power and that the state governments still existed and had officers capable of exercising all power inherent in such local units. The members of the committee made no effort to define specifically what functions were to be assumed, but they were careful to assert that the civil power was superior to the military.

The second report was from the committee to which had been referred the following subjects: the best means of restoring confidence and of checking disloyalty; the condition of the states, the temper of the people, and the ability of each state to contribute to the defense of the department; plans for bringing the entire population of military age into service; and measures to secure arms and ordnance. Underlying the solution of these questions was that of the military administration of the department. The report, which was adopted, declared that the mass of the people were still loyal to the cause of the Confederacy and had full confidence in the ability and integrity of the commanding general; it included a tabulated statement of the resources of the several states; and it showed that the supply of arms and ammunition received from the general government had not at any time been adequate, that now the loss of the Mississippi and the blockade of the Gulf coast had cut off the hope of receiving even a meager supply from that source and had thrown the department entirely on its own resources.

"Beleaguered as we are by the enemy," the report continued, "the commanding general can neither transmit reports nor receive orders from the capital. Hence the safety of our people requires that he assume at once and exercise the discretion, power, and prerogatives of the President of the Confederate States and his

subordinates in reference to all matters involving the defense of his department. The isolated condition and imminent peril of this department demand this policy, and will not permit delay; and we believe that all may be done without violating the spirit of the constitution and laws of the Confederate States, and without assuming dictatorial powers."

It was thus agreed that the general should assume war powers in this department, for the right to exercise the discretion, power, and prerogatives of the President and his subordinates in the defense of a department in imminent peril could hardly be less than war powers.

The report of the committee on the appointment of commissioners to confer with the French and Mexican authorities in Mexico was presented by Mr. Murrah. This report, which was also unanimously adopted, declared in substance that an understanding between the Confederacy and the different authorities in Mexico was very essential, partly because of the hostile relations between those French and Mexican authorities, but chiefly because of the entire dependence of the Trans-Mississippi Department on the ports of Mexico for supplies and for communication abroad. Such an understanding, it was stated, could best be reached by correspondence, which in the present state of affairs could not be conducted effectively through the Richmond offices; and as the correspondence would pertain strictly to the interests and immediate needs of this department, "the law, whenever the law speaks, and propriety, where the law is silent, points out the military commander of the department as the proper official" to conduct it. It was also suggested that an agent, intelligent, well-informed, one adapted to inspire confidence by his knowledge and discretion and not likely to be misled by flattery, be appointed and sent to Mexico. This agent, though perhaps not recognized by any rank or title, should have authority to find out the attitude of both governments toward the Confederacy, to see what arrangements each would make with regard to trade, to make explanations, to represent this department in matters of reciprocal interests to both parties, and to adjust differences concerning imports consigned to this department.

This is the first reference to and, as far as is known, the only authority for the assumption of this diplomatic or quasi-diplo-

matic function by the commanding general. Of course these state officials had no constitutional authority to confer such power on any person; and it seems that no recognition of it was ever made by Confederate officials. However, negotiations through Richmond would be impracticable; and the situation in the department required a representative who understood not only the vital needs of the department but also border and trade conditions and who could report to and receive instructions from the head of the department.

Since money is the barometer not only of issues but of nations, it was appropriate that the report dealing with currency and the best means of securing the cotton of the department, be made very exhaustive. Senator W. S. Oldham, chairman of the committee, read the report which is summarized briefly here. It stated that cotton was the only safe and reliable means of supporting and defending the department; that the impressment acts gave authority for the use of cotton for military necessity; but, since it was impossible to secure treasury notes to buy the cotton and since to pay for it with them would increase the number of such notes in circulation and thereby tend to depreciate the currency still more, the committee proposed:

"That certificates be executed and delivered to the owners of the cotton purchased, pledging the Government for the payment of the price agreed upon in 6 per cent coupon bonds, the interest to be paid semi-annually from the date of the certificate in specie. . . ."

The interest for the first two years was to be paid from the proceeds of the cotton, but after that time it was expected that the government would pay it. General Smith was advised to take charge of all cotton in the department, except such as he should decide would be needed for the welfare of the people. This, it was believed, would take the cotton trade out of the hands of speculators and thereby prevent the further accumulation and therefore the further depreciation of the Confederate notes in the department. As to the currency, it was suggested that, since money could not be obtained from Richmond, the commander, in the exercise of the special powers conferred upon him by the President, cause the Confederate notes not bearing interest, which had been funded with the various depositories within the depart-

ment, to be re-issued and used for the support of the army. It was considered that the government would accept these notes for bonds of the same rate of interest as the new issue. This report was unanimously adopted except the clause which recommended the issuance of the specie payment coupon bonds. On this the vote was a tie, but the records do not indicate who opposed it.

After all reports had been made, a resolution was passed voicing the confidence of the members of the conference in the skill, ability, and personal integrity of General Smith and of his regard for law. The general then expressed his gratification for the work accomplished, and the conference adjourned.

For the double purpose of stimulating popular zeal and of recognizing and endorsing the commanding general and his work, the four governors, R. W. Johnson acting for Governor Flanagin again, prepared and published an address to the people of the department. Its bombastic tone and the fact that the measures of the conference were so artfully and completely omitted indicate the terrible tension of the people and the serious apprehensions of these men for the success of the plans they had devised.

From a legal point of view, the work of the conference had no constitutional sanction whatever, but at the time, the commanding general, the President, and the secretary of war, as well as the state officials, considered it necessary and wise. If the people opposed it, the few newspapers available give no evidence of criticism. Its measures seem to have been accepted generally, and there can be little doubt of its salutary effect in the department. The authorities of the four states had not only compared resources and come to realize fully their great needs; but they had given to the commander of the department, who alone was able to assume the general direction of affairs, a moral support without which his every effort would have been futile.

3. Powers Delegated by the Confederate Executive

The Richmond officials appreciated at once the difficulties of both civil and military administration which the fall of Vicksburg and Port Hudson had placed upon the conduct of the government west of the great river. Two weeks before General Smith had sought from them official sanction for his plans or instructions as to what other course he should pursue, both the President

and the Secretary of War, as we have already seen, had written him on the same subject. The President's letter touched on every phase of the military service in the department—the probability of invasion by the enemy, the operations that would be most possible, the agricultural resources, the mineral wealth, and the efforts that had been made to establish factories and mills in the department,—but in no way did he intimate that the commander should extend his authority over civil affairs and he referred to the anomalous conditions west of the Mississippi only in general terms: "By the fall of our two fortified places on the Mississippi . . ., your department is placed in a new relation, and your difficulties must be materially enhanced. You now have not merely a military, but also a political problem involved in your command."¹³

Secretary Seddon's letter of the same date has not been preserved, but from references to it, its tenor is easily inferred. The general was told that he would have to assume large military powers, "to exercise powers of civil administration," and that he would have to form a civil and military government. It seems, however, that Seddon gave no definite instructions and merely suggested that the military administration be carried on by means of bureaus corresponding to those of the war department in Richmond. It was this letter, later referred to by Seddon as unofficial, which Smith had laid before his conferees at Marshall on August 15. Shortly afterwards, August 3, and before Smith's letter of July 28th could have been received, the secretary wrote that it would be impossible to give special instructions at such a distance, and that what measures should be adopted must be left largely to the commander's discretion, but suggested that Smith put himself in touch with the governors of the Trans-Mississippi states in order to maintain a cordial understanding and co-operation in carrying out his plans, and that he further seek the advice and influence of leading citizens throughout his department—the very things that Smith had already undertaken to do.¹⁴

The advice of Davis and Seddon lacked much in definiteness

¹³*Off. Recs.*, XXII, ii. 925-927.

Although the context is not clear, it is probable that Davis had in mind chiefly the necessity of removing the causes of dissatisfaction in Arkansas and of composing possible state jealousies.

¹⁴Seddon to Smith, August 3, 1863. *Off. Recs.*, XXII, ii, 952-953.

with respect to the most delicate problems which confronted General Smith. But they must have found it difficult to know what to say. This vast Trans-Mississippi department, comprising practically half of the country, was cut off from its government and its chief source of military supplies. It was impossible for the civil officers of the general government at Richmond to continue to direct affairs in that remote region; but there seemed to be no constitutional way by which important political functions could be entrusted to a military officer, even though the logic of the situation required that he who was responsible for the well being of the department should have all powers necessary to maintain and defend it. Moreover, Congress was not in session, and there was no way of determining to what extent that body would support the delegation of special civil powers to a military chieftain. To do all that the situation seemed to demand even with the support or the express authority of Congress, might easily arouse anew the opposition of that troublesome faction who insisted upon a strict adherence to the constitution regardless of other considerations. The consequences were problematical, especially since there was believed to be an element in the Trans-Mississippi Department which was clamorous for separation from the Confederacy.¹⁵ It was probably considered unwise either to bind General Smith with precise instructions or to confer upon him unreservedly authority over civil affairs—if, in fact, so much thought was given the matter. If his powers were vaguely defined there was less likelihood that he would be charged with exceeding them. If he was to fulfill the expectations of the government in making it self-sustaining, it would be impossible to confine his powers within the narrow limits of the law. It is said that the President once told General Smith's aide, Major Cucullu, whom the general had sent to him for instructions, that he did not dare to put on paper the powers which the general must exercise, because they were so great.¹⁶ This statement, if accurate, indicates that Davis, who always sought to avoid the appearance of departing from constitutional methods, was inclined to wink at the assumption of powers which he was unwilling expressly to authorize Smith to assume.

¹⁵Davis to Johnson, July 14, 1863. *Off. Recs.*, LIII, 879.

¹⁶Major Cucullu made this statement to Dr. Chas. W. Ramsdell of the University of Texas in December, 1913, in New Orleans.

The documentary evidence points in the other direction. When the general's letter of July 28, requesting approval of his assumption of extraordinary powers, was laid before the President, Mr. Davis endorsed upon it: ". . . My confidence in the discretion and ability of General Smith assures me that I shall have no difficulty in sustaining any assumption which may be necessary. Able heads of departments should be selected and large discretion allowed." But this concession, as is evident from the letter of Seddon which conveyed it to Smith, referred not to other cabinet departments, but only to bureaus within the war department.¹⁷ If after this, any hope lingered in the mind of General Smith that the President would expressly confer upon him authority over the subordinates of the executive departments other than that of war, it must have been dispelled by the explicit declaration in a later communication from Seddon that his previous suggestion that Smith should "exercise powers of civil administration . . . only meant such matters of an administrative character as were naturally promotive of or connected with military operations and appropriately pertained to the executive functions of the Confederate Executive. . . . What I had particularly in mind were the various administrative branches of service that minister to the supply, equipment, and furnishing of arms in all their branches of service . . . [These would be] analogous to our bureaus" [in Richmond].¹⁸

As a matter of fact, Smith had anticipated the suggestions of his superiors with respect to these bureaus. By a series of orders

¹⁷Seddon's language was: "Heads to any of the branches of service which are needed from here will be sent with large powers as you suggest; but I would recommend as a mode of adding to your influence and avoiding dissatisfaction and jealousy, that as far as you have competent persons in your department, you engage and recommend such for confirmation by the department. . . . I shall await your specific recommendations. . . . of such officers as are specially needed." August 30, 1863. *Off. Recs.*, LIII, 895.

¹⁸Seddon to Smith, October 10, 1863. *Off. Recs.*, XXII, ii. 1039.

Seddon added by way of illustration: "Now, the main offices of our bureaus may be executed effectively by assigning or placing at the head of each an existing military officer or agent already appointed for your department by one of the bureaus here. A chief commissary may discharge the duties, with the aid of appropriate subordinates, of the Bureau of Subsistence. A leading quartermaster, a competent adjutant, a chief of ordnance, the agent appointed by the Niter and Mining Bureau for your department may each, with appropriate assisting officers, discharge the duties of the corresponding bureaus here." *Ibid.*

during August and September, he had established commissary, quartermaster's, ordnance, and medical bureaus at or near his headquarters and had placed over them officers from his staff. All subordinates who under ordinary circumstances would make reports and returns to the heads of these bureaus at Richmond were directed to make reports to these new bureau heads.¹⁹ He had even gone further by the creation of a "cotton bureau," which had never been authorized anywhere, either by act of Congress or by order of the President.²⁰ He had also asked that the appointing power be delegated to him, subject to the approval of the President, until communication should be reopened with Richmond. He especially desired authority to issue invitations to appear before medical boards, to appoint staff officers of new organizations, to accept resignations, and to fill all vacancies. In this, however, he was trenching upon a constitutional prerogative which Davis cherished with jealous care. The President endorsed upon the request: "The power to appoint cannot be delegated. The Constitution confers it upon the President only, by and with the consent of the Senate. Promotions, elections, examinations may occur and be acted on for the time, officers may be assigned to staff duty, and thus the difficulty, recognized to the full extent described, may be practically removed. All which can be legally done will be performed by the Executive branch of the government to diminish, if it cannot remedy, the evil."²¹ The authority to regulate medical boards and to extend invitations to appear before them had already been accorded.²²

The failure of the secretary of the treasury to make a satisfactory arrangement for the supply of funds in the department had

¹⁹See General Orders, Nos. 37 and 41 in *Off. Recs.*, XXII, ii, 969, 991, and Smith to Davis, September 11, 1863, *ibid.*, 1004.

²⁰General Orders, Nos. 35, August 3, 1863. *Off. Recs.*, XXII, ii, 953. See also Seddon to Davis, January 23, 1865, *idem.*, LIII, 1039-1040. Smith's delegation to the cotton bureau of general control over the purchase and exportation of cotton on government account resulted in vigorous protests from Major Simeon Hart, quartermaster, to whom the secretary of war had previously entrusted the same task. Seddon, however, refused to interfere and explained to Hart that the whole matter must rest in the hands of General Smith. *Off. Recs.*, LIII, 904-905, 908-909.

²¹Smith to Seddon, September 12, 1863, with endorsements. *Off. Recs.*, LIII, 895-896.

²²Seddon to Smith, September 7, 1863. *Off. Recs.*, XXVI, ii, 213.

greatly hampered General Smith from the first and now caused him acute anxiety. No means were in sight for paying the troops or for providing for other needs of the army during the coming winter when a campaign against the federal forces was in prospect. After repeated appeals to Richmond, in one of which he threatened to attempt to raise a loan directly from the people, an arrangement was made by which he was to be supplied with funds by the re-stamping and reissuing of old notes at the depositories within his department.²³ Agents were appointed from Richmond to carry this plan into effect, but Smith was given no authority over them, and they were unable to afford adequate relief.

The net result, therefore, of General Smith's request for the grant of larger powers by the executive department was, first, an extension of authority over those bureaus of the war department hitherto not usually under the orders of commanders in the field, but directly under the secretary of war; and, second, the permission, grudgingly given, to make temporary assignment of officers to rank pending appointment and confirmation at Richmond. Over the operations of other cabinet departments no authority was definitely granted.

4. Powers Authorized by the Confederate Congress

The first Confederate Congress met in its fourth session, December 7, 1863, five months after the fall of Vicksburg. The extraordinary events which had transpired since its adjournment in May furnished numerous questions for its consideration, and one of them was the policy which it should adopt for the administration of the Trans-Mississippi Department.

In his official report for the year 1863,²⁴ the secretary of war explained the conditions in this department, due to its isolation, and urged that it would be judicious for "some extraordinary powers of military administration" to be entrusted to the general commanding, and that legislation should be enacted providing for the establishment there of separate offices under competent heads for the various cabinet departments, and of bureaus of the war de-

²³Smith to Davis, September 28, 1863. *Off. Recs.*, XXII, ii, 1028; Seddon to Smith, October 10, 1863, *ibid.*, 1040.

²⁴November 26, 1863. *Off. Recs.*, Series IV, Vol. II, 1016-1017.

partment under the commanding general analogous to those at Richmond.

The president's message summarized the conditions resulting from Federal control of the Mississippi, the difficulties encountered by the executive and the heads of departments in administering the Trans-Mississippi Department at that time, and the impossibility that officials east of the river should control operations west of it. He recommended that representatives of the post-office and treasury departments be placed west of the river with authority in the head of each department to vest in the assistant full power to operate the sub-department; while for military affairs, he advised that the president and secretary of war be authorized to "delegate to the commanding general so much of the discretionary power vested in them by law as the exigencies of the service shall require."²⁵

Resolutions were at once adopted in each house looking toward the legislation recommended. On January 5, a bill entitled "An act to authorize the appointment of an Assistant Secretary of the Treasury west of the Mississippi" went to the senate from the house. This bill amended to read "agent" instead of "Assistant Secretary" became a law January 27. This act empowered the president by and with the advice and consent of the senate to appoint an agent of the treasury who should reside west of the Mississippi and discharge such duties as should be assigned him by the secretary of the treasury. The secretary could empower the agent to discharge any duty or function west of the river that the secretary himself could discharge. To make this branch office effective, other bills were passed in a short time providing for the establishment in this department of two bureaus of the treasury, the one of the auditor and the other of the comptroller. The chiefs of these bureaus were to receive and disburse all the public money for the department; to keep the necessary accounts; to file evidences of all claims against the government in this department, which hitherto had been required to be filed in the state department; to receive instructions from and to report all transactions to the agent of the treasury for the department.²⁶

²⁵December 7, 1863. *Off. Recs.*, Series IV, Vol. II, 1045-1046; also in Richardson, *Messages and Papers of the Confederacy*, I, 377-378.

²⁶For the history of these bills see *Journal of the Confederate Con-*

On February 10, 1864, President Davis approved a bill authorizing the establishment of an agency of the postoffice department west of the Mississippi. This bill gave him the power, by and with the consent of the senate, to appoint a postoffice agent for and resident in this department. The postmaster general, or if necessary the president, was authorized to vest said agent with such power as would enable him to perform all duties that might be required of him to keep up the postal service in that part of the Confederacy. The bill further provided that funds for this branch of the postoffice should be deposited with the treasury agent there and should be transferred to the different postmasters by orders of the postmaster general; the funds so transferred were then to become subject to the postoffice agent for all liabilities. All acts of the agent were to be subject to revision by and to the approval of the postmaster general, the proper accounting officers of the treasury, and when necessary to the approval of the president.²⁷

At the beginning of the session the committee on military affairs was instructed "to inquire into the expediency of organizing and strengthening the Trans-Mississippi Department by the appointment of an Assistant Secretary of War." On February 13, the committee at its own request was discharged from further consideration of the matter, probably because of Seddon's opposition to it. He explained that, even though it was intended to make such agent subordinate to the commanding general, he feared the name or title would cause embarrassment. He preferred to leave General Smith in supreme control west of the river, and to organize auxiliary bureaus there.²⁸ An act was passed on February 17, 1864, providing for the establishment of such bureaus or agencies of the war department west of the river as the public service might require and auxiliary to those established by law at Richmond. This act empowered the general commanding this department under the authority of the president, or the secretary of war, to direct these bureaus, to assign staff officers and clerks to duty

gress, Vols. III, IV, VI, VII, *passim*. For the laws, see *Statutes at Large of the Confederate States*, 1st. Cong., 4th Sess., pp. 176, 230.

²⁷*Statutes at Large of C. S.*, 1st Cong., p. 184.

²⁸*Journal of Congress of C. S.*, III, 453, 728; Seddon to Smith, June 15, 1864. *Off. Recs.*, XXXIV, iv., 672.

in them or to make appointments therein, subject to the approval of the president.²⁹

Congress evidently intended that General Smith's control over the military administration in his department, though subordinate to the president and secretary of war, should be analogous to and as broad as that of his superiors. All later acts passed with reference to the military administration also reveal this intention. Only two such acts are shown here.

The president, February 15, 1864, approved an act to suspend the writ of habeas corpus in certain cases. This act declared the writ suspended, but that such suspension should apply only in cases of persons arrested or detained by order of the president, secretary of war, or the general commanding the Trans-Mississippi Department by the authority and under the control of the president. It further stated that during the time of suspension no military or other officer should be compelled to appear in court or to return the body of any person or persons in answer to any writ of habeas corpus held by him by order of the three named executive officials.³⁰ An act was passed February 17, 1864, authorizing the secretary of war or the general commanding the Trans-Mississippi Department to employ, or in case they could not do that, to impress free negroes and slaves to work on fortifications and perform other labor connected with the defense of the country.³¹

It is evident that Congress treated the Trans-Mississippi Department as a somewhat detached part of the Confederacy. Not only did it legalize the delegations of authority made by the president and secretary of war, but it extended the commander's powers in this field even beyond those granted by the executive officers. The department for all administrative purposes was repeatedly recognized as practically distinct from the Cis-Mississippi states. At any rate, the question of military administration was now settled though without prejudice to the president's superior authority.

Some interpretations by executive officers of the extent of the powers granted to General Smith are interesting and perhaps necessary in this connection. From a study of the bills referred

²⁹*Statutes at Large of C. S.*, 202-203.

³⁰*Statutes at Large of C. S.*, pp. 187-189.

³¹*Statutes at Large of C. S.*, p. 235.

to above and other sources, as has been shown, it does not seem that Congress considered granting any civil functions to the commander in the west. However, April 9, 1864, Davis explained to Governor Allen of Louisiana, with respect to the protection of citizens from unjust seizures by impressment officers, that General Smith had power to do everything in his department that he, Davis, could do. "He has power to execute the laws and that is the only authority I have."³² In writing to General Smith con-

"As far as the constitution permits, full authority has been given you to administer to the wants of your department, civil as well as military."³³

However, the context here does not make clear the exact meaning of the term "civil." In his annual report, dated April 28, 1864, Seddon said:

"The legislation of the late Congress for the Trans-Mississippi Department was both liberal and provident. Provision was made for the peculiar needs incident to its comparative isolation from the supervision of the central government, and all the agencies of a partially independent government were authorized. In the same spirit has been the action of the executive. Added rank and dignity have been bestowed on the able commander and administrator at its head, and to him have been entrusted the full measure of executive powers, which, under our constitutional system, could be exercised by others than the president."³⁴

In another letter to Smith shortly afterwards the president declared that it had been his endeavor to extend the general's powers to the utmost limit consistent with law and the nature of the government; and that to meet the extraordinary circumstances in which the department was placed laws had been passed granting the commander fuller powers.³⁵ Seddon also wrote that he thought General Smith, besides his position as military commander of the department, should combine with his strictly military duties somewhat of the relation of the secretary of war to the department and the president.³⁶

³²Davis to Allen, April 9, 1864. *Off. Recs.*, LIII, 981-982.
cerning the work of Congress, he said:

³³April 28, 1864. *Off. Recs.*, LIII, 986.

³⁴*Off. Recs.*, Series IV, Vol. III, 341.

³⁵Davis to Smith, June 14, 1864. *Off. Recs.*, XXXIV, iv, 671.

³⁶Seddon to Smith, June 15, 1864. *Off. Recs.*, XXXIX, iv, 672.

Communication with Richmond was uncertain; it was months after laws were passed by Congress before they were received west of the river. The commanding general received few letters from chief officials during the winters of 1863-64 and 1864-65. He was beset with many difficulties; he had no means; there were conflicting claims and conflicting authorities; and copies of the laws which would have helped him were not received until months after their enactment. Under these circumstances, he had found it necessary in 1863, when organizing the cotton bureau, to assume control over treasury agents in the department. In December, 1864, the question of his authority to do this came up in the house, and the president was requested to submit to that body copies of all instructions from the secretary of war to General Smith by which the latter claimed the right to assume control over agents of the treasury. The data was submitted January 25, 1865, but so far as can be determined no action was taken.³⁷

In this matter of granting civil powers, then, it seems that the executive officers early realized the necessity that some such authority be given to the commander of the department, but were unwilling to commit themselves definitely; that Congress was silent on the question of the control by the general of the non-military agencies it established in the department; that the executive officers, after the meeting of Congress, were inclined to interpret the delegation of power as extending over the civil administration, but they saved themselves by artfully inserting the qualifying phrase "so far as the constitution permits"; and that when General Smith, under pressure of necessity, assumed some of those functions, the authorities at Richmond acquiesced.

(Continued)

³⁷Journal of Cong. of C. S., VII, 403-404; also see Seddon to Davis, January 23, 1865. *Off. Recs.*, LIII, 1309.

MINUTES OF THE AYUNTAMIENTO OF SAN FELIPE
DE AUSTIN, 1828-1832¹

I

EDITED BY EUGENE C. BARKER

Town of Austin, capital of the jurisdiction of that name, in the department of Bexar, State of Coahuila and Texas, February 10, 1828. Citizen Stephen F. Austin, appointed on November 17 by the superior order of the Most Excellent Governor of the State to hold the first municipal electoral assembly of the said jurisdiction—which order was circulated by the chief of the department on December 11 last—met with John P. Coles, James Cummins, Thomas M. Duke, Alexander Hodge, and Humphrey Jackson alcales; Alexander Calvit, Green B. Jamieson, Philo Fairchild, Thomas Barnett, Moses Morrison, William Kincheloe, Rawson Alley, John Elam, and Clement C. Dyer tellers; Lawrence Richard Kenney, John D. Tay[lor], John Andrews, Shubael Marsh, and John R. Foster secretaries. The lists of the electoral assemblies of the respective districts of the jurisdiction were opened, in conformity with the 3d article of the above superior order and in fulfillment of the 100th article of the Regulation for the Administration of Towns,² and the three general lists which said article

¹The minutes of the ayuntamiento of San Felipe de Austin from its installation on February 12, 1828, to January 3, 1832, are in the Spanish department of the General Land Office at Austin, in three thin manuscript volumes. They were turned over to Ezra Cleveland, clerk of the district court at Bellville, by the county clerk in 1849, and by him transferred to the Land Office on April 30, 1852, under authority of a legislative act of February 9, 1852, for depositing land records in the Land Office. Volume 1 contains the minutes from February 10, 1828, to June 4, 1830, Volume 2 from July 5, 1830, to January 1, 1831, and Volume 3 from January 17, 1831, to January 3, 1832. Volume 1 contains 63 single sheets or leaves, written on both sides. With the exception of sheets 6, 7, half of 8, and 11 the first 41 sheets are in Spanish and are translated by the editor. Thereafter to the end of the third volume the record is bi-lingual with the Spanish on the left-hand page and the English on the right. In a few cases, indicated in the notes, it has been possible to replace a missing page of English by translation of the Spanish. Thanks are due Hon. James T. Robison, Commissioner of the General Land Office, for permission to publish these records. An account of the government of Austin's Colony before the organization of the ayuntamiento appears in this issue of *THE QUARTERLY*, pages 223-252.

²This decree (No. 37) is omitted from the official publication of the Laws of Coahuila and Texas, but there is a Spanish copy in the Austin Papers at

the University of Texas, and a translation by Stephen F. Austin in the *Texas Gazette*, Nos. 3, 4, and 5, October 13, 24, and 31. The University has Nos. 3 and 5, and Mrs. Mila T. Morris of Houston, Texas, has the first volume of the *Gazette* very nearly complete. The writer is indebted to the generosity of Mrs. Morris for the use of her copy. The law is so nearly inaccessible that the sections defining the functions of the ayuntamiento are here reprinted.

"Art. 109. The ayuntamiento shall promote the establishment of hospitals, poor houses, or houses of charity and benevolence, they shall take care that the streets, markets, public places and prisons are kept clean, and also that the apothecary shops and other establishments that may have any influence on the public health shall be kept in proper order to prevent deleterious effects.

"Art. 110. They shall not permit physicians or apothecaries to exercise their professions without a previous presentation of their diplomas or certificates from the respective scientific authorities or corporations, accrediting fully their qualifications. . . .

"Art. 111. The ayuntamiento shall have an inspection over the provisions and liquors of all classes that are offered for sale, and see that they are of good quality; they shall also take such timely measures as may be practicable for procuring supplies of the common necessities of life in seasons of scarcity, so that the inhabitants may not suffer by famine.

"Art. 112. They shall . . . provide proper burying grounds beyond the limits of the towns. . . .

"Art. 113. They shall take care that the lakes and ponds be drained, so that water shall not stagnate in the towns.

"Art. 114. They shall remove whatever may jeopardize the health of the inhabitants or stock within the jurisdiction, when practicable to do so.

"Art. 115. They shall take special care to establish a board of health, even in settlements or towns where there is but one physician.

"Art. 116. They shall see that the streets are straight, paved and lighted, when it is practicable, and that shade and ornamental trees shall be planted, and public walks formed.

"Art. 117. They shall take care that the public roads of the district are kept in order and repair. . . .

"Art. 118. They shall also take charge of the repairing, preservation and construction of all works or buildings of public utility or ornament, within their respective jurisdictions.

"Art. 119. They shall take care that the woods and timber belonging to the commons shall be preserved and shall not permit one useful tree to be destroyed without planting three of the same kind in its place, and the owners of land shall be excited to take care of and augment their groves, but without interfering in the use or benefit they may choose to make of them.

"Art. 120. The ayuntamiento shall take charge of the administration and regulation of hospitals, poor houses, institutions of learning, and other establishments of a literary, scientific or benevolent nature that are supported by the public funds, and in those that are established by individuals they shall see that nothing contrary to the laws is permitted.

"Art. 121. Every six months they shall form a statistical account of the municipality, and every three months they shall call on the curate of the parish for a note of those born, married and dead, specifying the sexes, ages, and both documents shall be transmitted to the chief of partido.

"Art. 122. They shall not permit in their jurisdiction vagabonds, drunkards, gamblers by profession, nor any idle or vicious people who have no

visible means of subsistence; and, in order that they may dictate the necessary general measures to prosecute persons of this class, those are declared such:

"1st. Who live without any occupation, business or income.

"2d. Those who, being sound and vigorous, and of robust age, or who have an impediment that does not incapacitate them from work, go about from door to door begging alms.

"3d. Those who, possessing property or income, or being of respectable families, spend their time in gambling houses, and other suspicious places, to the public scandal, and who are disrespectful to the public authorities.

"4th. Those who have some profession or occupation, and are idle the greatest part of the year without just cause.

"5th. Day laborers who only work one day out of many, and who spend the time in idleness which ought to be employed in useful labor, without adopting any other honest means of subsistence.

"6th. Loose young persons from other places who have run away from their homes and have no fixed occupation, and also those belonging to the jurisdiction who have no other occupation than begging, either because they are orphans or because their fathers had abandoned them to this vile mode of living.

"Art. 123. The ayuntamientos will attend to the correction and reformation of such persons, and after examining the summary investigation to be made respecting them by the alcalde, they will, in accord with the alcalde, set them to work for a time not exceeding six months in some shop, farm or other useful occupation under the direction of their proprietors, or of some managers, and should they again return to their vices, they shall be condemned to public works for six months longer, but there must first be a previous investigation to prove that they have so returned to their vicious habits.

"Art. 124. They shall promote in the limits of their jurisdiction the planting and cultivation of all fruits and productions that can be raised, and are not prohibited by the laws.

"Art. 125. They shall make a distribution of the contributions assigned to each town or jurisdiction, proceeding in this with prudence and equity.

"Art. 126. They shall remove, in conformity with the laws and so far as may be possible, the obstacles that retard agriculture, industry, commerce and the progress of mining.

"Art. 127. They shall see that the supplies to be furnished to the troops, agreeably to the existing laws, are proportionately divided amongst the inhabitants.

"Art. 128. It is their particular duty to establish primary schools in all the villages or settlements of the jurisdiction, and see that everything shall be taught in them prescribed by the 215th article of the constitution, and for this purpose they shall designate, of themselves and with the knowledge of the chief of department, the means of raising the necessary funds to establish them in places that for want of such funds cannot have them immediately, and propose the same to the government for its determination on the subject.

"Art. 129. They shall appoint a committee from their own body to visit such schools weekly, and they will inform the government every six months as to the state of said schools, stating the aid that is needed for them, and the mode of remedying the embarrassments to their advancement, when such embarrassments cannot be removed by the sole authority of the ayuntamiento.

"Art. 130. They will excite, by every means in their power, the fathers

100³ prescribes were formed. The result was that Mr. Thomas M. Duke received 131 votes for alcalde and Mr. Ira Ingram received 111 votes.

Mr. Thomas Davis, 223 votes for Regidor

Mr. Humphrey Jackson, 96 votes for idem

Mr. William Morton, 92 votes for idem

Mr. H. H. League, 24 votes for idem

Mr. Wyly Martin, 15 votes for idem

Mr. J. H. Bell 1 vote for idem

Mr. L. R. Kenney 1 vote for idem

[p. 1a] For Sindico procurador Mr. Rawson Alley received 218 votes and Mr. M. B. Nuckols 3 votes.

These elections having been announced by the presiding officer, of families to send their children to school, and they will see that the curates exhort their parishoners to this effect.

"Art. 131. The funds and capitals of schools must be secured and their rents attended to to the satisfaction of the ayuntamientos and on their responsibility.

"Art. 132. The ayuntamientos shall see that all the strays that appear within the limits of their jurisdiction are taken up, and render an account of them to the government every six months. . . .

"Art. 133. The ayuntamientos shall have charge of the administration and application of the municipal funds. . . . They shall transmit annually to the chief of partido a certified account of the ingress and egress of said funds.

"Art. 134. The ayuntamientos that have not funds sufficient for their ordinary expenditures shall form an estimate of their annual expenses in the manner prescribed in article 91 of this law, and in the same manner propose the means of raising them. When it is necessary to have recourse to taxes to raise extra funds for building municipal houses and jails, or for their repair . . . an estimate of the costs of such buildings or repairs, and a plan of taxes for raising such extra funds shall be made . . . and transmitted to the government for approval.

"Art. 145. In order that the measures and resolutions of the ayuntamientos shall be executed and obeyed within their respective jurisdictions, they can impose fines on those who violate them, from four bits to fifty dollars; or imprison or condemn to public works from one to fifteen days those who are unable to pay such fine, proceeding in both cases by means of the alcalde who presides over said corporations. The fines shall be applied to the funds of the municipality.

"Art. 149. There shall be one secretary in each ayuntamiento, elected by the same, by a plurality of votes." . . .

"Art. 100. On the next Sunday after the said election the ayuntamiento shall convene in their hall, and the president, tellers and secretaries of the electoral assemblies shall also convene at the same time and place, and three general lists shall be made from all the others, in one shall be set down the persons voted for for alcaldes, in another those voted for for regidores, and in the other those voted for for sindico procurador, placing the persons who had the highest number of votes first on the respective lists."

the list was immediately posted in the most public place, and it was agreed that attested copies should be taken from this to be sent to the Government, forwarding by *conducto* of Citizen Stephen F. Austin the official advice which article 103⁴ of the above superior order.

The said Señor Stephen F. Austin read a translation of the laws of the state on the administration of justice,⁵ on the political administration of towns, and a discussion of the powers and duties of the ayuntamiento.

The proceedings continued. A general list was formed of the persons who received votes for the position of commissaries of police and *sindicos* for the districts of Victoria and Mina. This showed that Thomas Barnett received 45 votes, G. B. Hall 35 votes and M. B. Nuckols 1 vote for commissary of the district of Victoria; and that Thomas Barnett received 38 votes, John D. Taylor 33 votes, William Harris 18 votes, and M. B. Nuckols 1 vote for *sindicos* of the same district. Barnett having received the greatest number of votes for commissary was declared elected to that office, in conformity with article 101⁶ of law No. 37. In the same way, Taylor having received the greatest number of votes, after Barnett, for *sindico*, was declared legally elected *sindico* in conformity with the said article 101. For the office of commissary of the district of Mina William Kincheloe received 14 votes, Amos Rawls received 14 votes, and [p. 2] Daniel Rawls received one vote for *sindico* of the same district.

In virtue of which, Thomas M. Duke was declared to be elected *alcalde*, Thomas Davis and Humphrey Jackson *regidores*, and Rawson Alley *sindico procurador* for the new ayuntamiento of the said jurisdiction of Austin; Thomas Barnett commissary of police and John D. Taylor *sindico* for the district of Victoria; and Wil-

⁴“Art. 103. The President of the respective ayuntamiento shall give an official notice to the persons who, in conformity with article 165 of the constitution, are elected for the municipal offices.”
said law No. 37 requires, and in fulfillment of article 4 of the

⁵See above, p. 246, note 83.

⁶“Art. 101. Should the same individual receive votes for *alcalde*, *regidor* and *procurador*, he shall only be set down on the list of the one for which he received the highest vote, and should such individual receive an equal number of votes for two or more of said appointments, that of *alcalde* shall take precedence over that of *regidor*, and the latter over that of *procurador*.”

liam Kincheloe commissary of police and Amos Rawls *sindico* of the district of Mina.

Citizen Stephen F. Austin, President of the electoral assembly (*junta*), having given official notice to those elected, as article 103 of the regulation for the political administration of towns requires, and each one of the said persons having taken the oath which article 220 of the State Constitution requires, they assumed by this act their respective offices.

In conclusion of this session, the president, the *alcaldes*, tellers (*escrutadores*), and secretaries, and the the secretary of the jurisdiction signed these proceedings.

Estevan F. Austin

James Cummins

Alexr Hodge

John P. Elam

Thos M. Duke

Humphrey Jackson

Rawson Alley

Lau[ren]ce Rich Kenney

Shubael Marsh

Samuel M. Williams

Secretary

[p. 3] List of the individuals who obtained votes for the office of *sindico procurador* of this town in the municipal assembly held on the 10th day of this month, in accordance with the special order of the Governor of the State, dated November 17 of the past year and communicated by the political chief of this department on December 11 of the same year through a commission to Citizen Empresario Stephen F. Austin for holding this assembly.

Names	Votes
Rawson Alley	218
M. B. Nuckols	3

Town of Austin February 10, 1828.

Estevan F. Austin, President

Green B. Jameson, Teller (*escrutador*)

Rawson Alley, Teller

Samuel M. Williams, Secretary.

[p. 4] List of the individuals who received votes for *alcalde* of this town in the municipal assembly held therein the 10th of this month in accordance with the special order of his Excellency the Governor of the State the 17th of November of the past year,

and communicated by the political chief of this department December 11 of the same year by means of a commission to the Citizen Empresario Stephen F. Austin to preside over the said assembly.

Names	Votes
Thomas M. Duke.....	121
Ira Ingram	111

Town of San Felipe de Austin, February 10, 1828.

Stephen F. Austin, President

Green B. Jameson, Teller

Rawson Alley, Teller

Samuel M Williams,

Secretary.

[p. 5] List of the individuals who obtained votes for the office of *regidor* of this town in the municipal assembly held therein the 10th of this month in accordance with the special order of his Excellency the Governor of the State the 17th of November of the past year, and communicated by the political chief of this department December 11 of the same year by means of a commission to the Citizen Empresario Stephen F. Austin to preside over the said assembly.

Names	Votes
Thomas Davis	223
Humphrey Jackson	96
William Morton	92
H. H. League	24
Wyly Martin	15
J. H. Bell.....	1
L. R. Kenny.....	1

Town of San Felipe de Austin, February 10, 1828.

Estevan F. Austin, President

Green B. Jameson, Teller

Rawson Alley Teller

Samuel M. William, Secretary

[p. 6] **In virtue of the foregoing act of election in which citi-

**The matter between the ** is from the English original, pp. 6, 6a, 7, 7a, and 8.

zen Thomas M. Duke was elected Alcalde, Citizens Thomas Davis and Humphrey Jackson were elected Regidores and Citizen Rawson Alley as Sindico Procurador and the said Individuals having under said act taken the oath prescribed in art. 220 of the state constitution proceeded to the installation of the Municipal Ayuntamiento for the jurisdiction of Austin—The Persons aforesaid took their respective places presided by Citizen Thomas M. Duke Alcalde and having declared themselves as ready to proceed to the discussion and organization of the subjects more immediately connected with their formation—The Ayuntamiento was proclaimed to be duly installed and organized and then proceeded to the discussion and decreeing the following subjects—First the appointment of Secretary—the Secretary of the jurisdiction having declined the appointment ordered that means be adopted to procure a Secretary and appoint and commission him in order to attest the acts of the Ayuntamiento as the Law requires and until such appointment Citizen Samuel M. Williams is hereby authorized to attest to the proceedings of this meeting and the acts of the Ayuntamiento and should the appointment of secretary not be verified [p. 6a] to the next meeting he will be considered as acting Secretary Pro Tem. at such next meeting, and should his Situation permit a further continuance and no person be appointed he can continue to act until such appointment is verified—Second The Existing necessity of Stationary Quills Ink etc. require the immediate attention of this body. Therefore ordered that Citizen Thomas Davis be and is hereby appointed a committee to procure on the faith of the Ayuntamiento a sufficient quantity of stationary Quills Ink etc. a house or convenient building for the Ayuntamiento to hold its meetings and to keep the archives of the Ayuntamiento and Alcalde and a sufficient Book or paper case for the preservation of the archives of this body and the Alcalde a Table and seats for the same as soon as practicable and report at the next meeting what he may have done 2d Ordered that the acting secretary extend the necessary official notices for the Govr of the State, Chief of the Depart. and the Ayuntamiento of Nacogdoches LaBahia and Bexar of the installation of this Ayuntamiento and answer the official letters recd through Citizen Stephen F Austin this day from Chief of Department—Further ordered that Citizen Thos

M. Duke be appointed a committee to draw up an address to the people in the form of a subscription paper exhorting the Inhabitants to afford such assistance as may be convenient for [p. 7] the construction of a Court House and jail or either of them as the amt reed may justify and in the opinion of the Ayuntamiento may be most necessary—Further ordered that in obedience to the official order of the Chief of Department dated 5th February in this year that the necessary instructions be issued to the Regidor of this body and C[itizen] Thomas Davis and the sindico Procurador Citizen Rawson Alley and the commissarios of the Precincts of Victoria and Mina for the taking of the census of this Colony in the manner and form described in the plan accompanying the said official order. The commissario of Mina will take the Census of the whole of his precinct, the commissario of Victoria will take that of the whole of his precinct except that on the waters of the Buffalo Bayou and San Jacinto which will be taken by the sindico of that Precinct—The Regidor Thomas Davis of this body will take that part of the District of San Felipe below the Coshatie crossing down to the precinct of Victoria and the Sindico procurador Rawson Alley will take that part of the District on the Colorado down to the precinct of Mina and above the Coshatie road on the Brazos River. The Ayuntamiento adjourned [p. 7a] until the 9th day of March 1828 San Felipe de Austin 12th of Feby 1828

Thos M. Duke
Pres. Ayuntamiento

Attest

Samuel M. Williams
Sectry Pro Tem—

I do certify that this is a true copy from the original record of the meeting which was drawn on Blank paper and transferred to the Sealed Record of Proceedings of Ayuntamiento

Thos M. Duke
Pres. of Ayuntamiento

San Felipe March 14th 1828

[p. 8] The Ayuntamiento met according to adjournment The Secretary Pro Tem being out of place the meeting was adjourned to the 14th instant on that day they again met and the secretary

pro tem Samuel M. Williams declining to serve citizen Stephen F. Austin was chosen Secretary pro tem to this meeting

Members Present Citizen Thomas M. Duke Pres of Ayuntamiento Citz Thomas Davis Regidor and citz. Rawson Alley sindico Procurador having declared themselves ready Proceeded to business—In the first place they agree to forward the following proposition to Government. *to wit***

The public resources (*fondos propios*) of this jurisdiction consist of the lots of the town of Austin and the public ferry here on the Brazos River. The first have not as yet produced enough to pay the necessary charges of the surveyor who surveyed the lots and made the plat of the town, and there is little hope that they will produce anything for this year. The second is leased for this year for the sum of a hundred dollars.

Public funds lacking, the ayuntamiento proposes to the government the following taxes to cover the two estimate which are submitted: One of \$750 for municipal expenses, and the other of \$4,000 to build a [p. 8a] jail and town hall.

to wit:

For license to citizens or inhabitants legally established as such for keeping a dry goods store, \$5 for each six months, payable at the time of taking out the license.

For the same to foreigners, \$10 for each six months, payable in the same way.

For the same to citizens to sell merchandise and liquors, \$7.50 each six months.

For the same to foreigners for the same purpose \$15 for each six months, payable in the same manner.

The same to public inns in which liquors are sold, \$7.50 payable in the same manner.

The same for inns in which liquors are not sold, \$5 for each six months, payable in the same way

The same for selling peddler's goods—for citizens, \$5 each six months; for foreigners, \$15 each six months, payable in the same way.

One dollar a year for each slave, of whatever age or sex, payable one-half each six months by the owner.

Twelve and a half cents a quintal on all merchandise, not the

produce of the jurisdiction, exported from the jurisdiction or passing through its territory in transit.

[p. 9] Twelve and a half cents for each head of cattle driven from the jurisdiction, except those belonging to emigrants or citizens who are going to establish themselves in other parts of the state.

Half a real [$6\frac{1}{4}$ cents] for each head of small cattle [sheep, goats, etc.] driven from the jurisdiction, with the above exception.

Five per cent on the cost of the original manufacture of all merchandise or goods introduced in the jurisdiction, except liquors, and five cents⁷ a gallon (*galón*) of five *quartillas* for liquors.

Two and a half cents a gallon, of five *quartillos*, on liquors made of corn or any other product in the jurisdiction.

The ayuntamiento, under its responsibility, is to name the persons and formulate the regulations which it considers necessary for collecting and securing the exact assessment (*cobro*) of these taxes, and shall have authority to fine any one who tries to defraud the municipal funds in the assessment or payment of the said taxes to three times the amount of the fraud which was so attempted or effected, after trial of the case before the *alcalde*.

[p. 9a] Any one who sells anything or who opens an inn under circumstances which require a license, as previously mentioned, before having obtained the appropriate license, shall be held for a defrauder of the public funds and fined to three times the price of the required license, in conformity with the above.

Town hall of the Villa of Austin, March 14, 1828.

Estimate of municipal expenses for the jurisdiction of Austin for the year 1828, made in conformity with article 134^s of law No. 37, of June 13 [15], 1827.

To wit:

Salary of a Secretary learned in the Spanish and English languages, who can also serve as translator.....	\$350
House rent until the town hall is built.....	100
Cost of paper and other things for the Secretary's office....	100
Mileage of members attending meetings of the ayuntamiento.	200
	<hr/>
	\$750

⁷The expression is *cinco sueldos*. A footnote explains that "by *sueldo* is understood the hundredth part of a dollar."

⁸See note 2, p. 299.

Note—The sum of \$200 is suggested to pay the personal expenses of the members of the ayuntamiento because one of them lives thirty [p. 10] leagues and another ten leagues from the town, and, since they have no house in town, must pay their expenses from their own pockets—a charge which they consider somewhat heavy to pay from their own funds.

Town of Austin, March 14, 1828

Estimate of the cost of building a jail and town-hall in the Villa of Austin, formed by the ayuntamiento in accordance with article 134 of law No. 37, of June 13 [15], 1827.

To wit:

For building of jail.....	\$1,000
For building of town-hall.....	3,000
	<hr/>
	\$4,000

**Villa de Austin 15th de Marzo de 1828

Ordered that a provisional Election be held on the thirtieth day of this month for one Captain and two Lieutenants in the former district of Colorado at the house of James Cummens—Likewise ordered that a provisional Election be held on the 6th of April next for One Captain and two Lieutenants in the former District of Bravo at the LaBahia Crossing of the River Brazos. The Ayuntamto adjourned until the 12th of April next.

San Felipe de Austin—March 15th 1828

Thos M. Duke

Prest Ayuntamto

Attest

Stephen F. Austin

Sy pro tem

[p. 10a] March 31st 1828. Having presented the individuals charged by this body to take the census their respective lists from which must be formed and remitted to the Chief of Department the Census of this jurisdiction in Conformity with the form recd from the said Chief up to this day and remitted to the same by the next mail.

**The matter between the ** is from the English original, p. 10.

Villa de Austin 31st March 1828.

Considering the paralyzed state of immigration to this Jurisdiction from the U. S. arising from the difficulties encountered by Immigrants in bringing servants and hirelings with them, this Body conceive it their duty to propose to the Legislature of this state through the Chief of Depart a project of a Law whereby emigrants and inhabitants of this state may be secured in the Contracts made by them with servants or hirelings in foreign countries which project the prest will make out in the following terms to wit. "Are guaranteed the Contracts made by emigrants to this state or Inhabitants of it with the servants or hirelings they introduce" and solicit the said Chief to forward it on to the Legislature with [p. 11] such additional influence as he may think proper to extend to it. Villa de Austin 5 de Abril de 1828.**

[MUNICIPAL ORDINANCE⁹

The Governor of the State of Coahuila and Texas to all its Inhabitants—Know Ye, that the Congress of said state have decreed as follows:

No. 100.—The Constitutional Congress of the free independent and sovereign state of Coahuila and Texas have enacted the following

MUNICIPAL ORDINANCE^a

FOR THE GOVERNMENT AND REGULATION OF THE AYUNTAMIENTO OF AUSTIN

CHAPTER I

OF THE INSTALLATION AND INTERIOR RULES OF THE AYUNTAMIENTO, AND THE APPOINTMENT OF COMMITTEES

Art. 1. On the first day of January, of each year, the ayuntamiento, of the last year, shall convene, in public session, in con-

⁹The volume contains no minutes from March 14 to December 21, but in the *Texas Gazette* of October 31, 1829, appears a municipal ordinance which Austin says this ayuntamiento adopted and submitted to the legislature. The legislature passed it as Decree No. 100, May 30, 1829, but it is omitted from the official publication of the Laws of Coahuila and Texas. For that reason it is thought desirable to present it here.

^aThis ordinance was formed by the ayuntamiento of 1828 (except the last chapter), in compliance with the 150th article of the law 37, regulating the executive branch of the state government, and it was transmitted to the governor, through the chief of department, to be laid before the legislature for approval.—Translator.

junction with the persons newly elected for the ayuntamiento of that year. The president of the last year's ayuntamiento shall then administer the oath prescribed by the constitution (220th art.) to the president of the new ayuntamiento; and the latter shall in like manner administer it, to all the newly elected members in regular order.

Art. 2. This act being concluded, the president of the old ayuntamiento, in order to inform the newly elected members and the people, at the beginning of each year, of the true situation of the municipality, and of its progress, shall deliver a written discourse, or message, to the new ayuntamiento in said public session; explaining, in general terms, the state of the municipality, and giving a detailed account of all subjects or business that may be unfinished, which are deemed to be interesting, and particularly of the state of public improvements, building, or other things which may require any expediture of the municipal funds; specifying minutely all contracts made with individuals in such cases; he will also state any defects or inconveniences which experience may have pointed out in the municipal ordinance, or in any of the municipal regulations, enacted by the ayuntamiento (bandos) suggesting the amendments^b that may be deemed necessary to remedy such defects or inconveniences, and finally he will present a general account of the state of all municipal funds during the year of his administration, specifying, in detail, the ingress and egress of such funds, and stating any defects or inconveniences which it may appear, from experience, exist in this branch, as well as in all other branches of the administration, which are committed by the laws to the ayuntamiento.

Art. 3. Before the above stated session is adjourned, the new president shall call a session of the new ayuntamiento, for the

^bThe mode of amending the municipal ordinance, is by petition from the ayuntamiento to the legislature through the chief of department and governor, stating clearly the specific amendment that is required and the reasons which make it necessary, should the legislature approve of such proposed amendment it becomes a law and a part of the municipal ordinance, but should it not be so approved, it fails. The municipal regulations (bandos) which are enacted by the ayuntamiento can be amended or repealed by that body—any citizen or number of citizens, can petition the ayuntamiento, in a respectful and decorous manner, on any subject connected with the local regulations or affairs of the municipality which are placed by law, under the direction and control of that body; said petitions are presented by the *sindico procurador*.—Translator.

purpose of appointing the permanent or standing committees, which the ayuntamiento may deem necessary; such committees will be composed of one or more persons each; and the president will cause the former committees, of the last year, to deliver over to the new ones all the papers and document which may be in their possession, appertaining to said committees.

Art. 4. The special committees shall be appointed by the president, as the circumstance of any particular subject may require; and they may be composed of one, two or three individuals, at most, keeping always in view the qualifications of the persons selected.

Art. 5. No member of the ayuntamiento shall refuse to serve on committees, except for a just and sufficient excuse, which must be approved of by two-thirds of all the members of that body.

Art. 6. Each committee shall promptly, exactly and faithfully discharge the duties assigned to it, rendering an account to the ayuntamiento of any embarrassments which may present themselves, and being directly responsible to that body for any neglect or omission in executing the business confided to it.

Art. 7. The committees shall make a report to the ayuntamiento, in writing, on finishing the subject referred to them, and that body adopt such measures, on said reports, as may be necessary.

Art. 8. The committee charged with the examination and inspection of schools must make a report, on that subject, at each regular session of the ayuntamiento at least.^c

CHAPTER II

OF THE SESSIONS

Art. 9. The ayuntamiento shall hold a session on the first Monday of each month, if it is not a religious holiday, and if it should be, the session shall be held on the next following day that may not be a holiday.^d The said sessions shall commence at ten o'clock, A. M. and shall continue as long as the ayuntamiento may conceive it necessary to complete the business on

^cThe ayuntamiento are the trustees and supervisors of schools and institutions of learning, within the municipality. See chapt. 6, law 37.—Translator.

^dThe religious holydays on which it is illegal to do business are designated in the Mexican almanacs by a double cross, thus ††.—Translator.

hand; and each member shall attend such sessions, unless absent with leave, or for a good and sufficient reason.

Art. 10. Any member who fails to attend the sessions, without good and sufficient reason, shall be fined not less than two nor more than ten dollars, which fine shall be applied to the municipal funds.

Art. 11. Any member of the corporation has the right to request an extra session of that body, whenever he may deem it necessary.

Art. 12. The president shall call such extra session on the presentation of a petition, requesting it either verbally or in writing; and no member shall fail to attend the same under the penalty prescribed in the 10th article.

Art. 13. Subjects shall be introduced and discussed methodically in the ayuntamiento; each member who wishes to speak shall notify the same to the president, who shall see that each one speaks in his regular turn, and that he is not interrupted while speaking.

Art. 14. The discussions shall be public, unless decency or other important circumstances require them to be secret.

Art. 15. The secret discussions shall continue as long as the subject may require.

Art. 16. The vote on all ordinary subjects shall be taken by calling upon those who approve to rise, and those who disapprove to keep their seats.

Art. 17. Whenever the subject is an important one, or whenever any member, in order to save his own responsibility, or for public information, should call for the ayes and noes, the vote shall be taken in that way and recorded, each member, as called, pronouncing his name, and stating whether he approves or disapproves.

Art. 18. The vote can also be taken by secret ballot whenever the question is relative to appointments, or whenever it may be deemed necessary. Such secret ballot may be taken by each member approaching the president or secretary, and signifying his vote, which shall be registered in his presence, or by means of tickets which shall be delivered to the president, who will deposit them in a ballot box, and the secretary shall take them out,

one by one, and pass them to the president, who will read them aloud, and declare the result of the election.

Art. 19. Should the president, presiding, not be a regidor he shall have no vote, except in cases of a tie and in elections, in which he shall always have a vote; should there be a tie in elections the vote shall be repeated; and in case of a tie the second time it shall be decided by lot.

Art. 20. In all votes a majority of one more than half the members present shall be sufficient to decide the question.

Art. 21. Good order shall be observed in all debates, and all harsh or offensive expressions against any member of the corporation shall be avoided. The debates shall not deviate farther from the subject, under discussion, than may be necessary to its elucidation.

Art. 22. Whenever the subject, under discussion, is relative to any member present, or to debts due by him in which the corporation are interested, he shall immediately retire, in order that the vote on the subject may be unembarrassed; he shall, however, have the right of making an explanation of the matter before the vote is taken.

CHAPTER III

OF THE PRESIDENT AND HIS ATTRIBUTIONS

Art. 23 The alcalde or regidor, as the case may be, who presides over the corporation, shall report the subjects which are to be acted on by that body, and designate the order in which they shall be taken up according to their importance; and he shall also:

1st. Declare whose turn it is to speak, in conformity as the members may have signified their intention so to do,

2d. Call members back to the subject under discussion who may deviate from it,

3d. Call to order those who are rude or disrespectful,

4th. Adjourn the session to the day designated by this ordinance, and convoke extra sessions when necessary,

5th. Fine those who neglect their duty without a good and sufficient cause,

6th. Require the members to appear at the session in a decent manner, and cause the hall to be cleared when a secret session is

ordered, or when the spectators are disorderly, first calling them to order,

7th. Conduct the correspondence of the ayuntamiento, which shall be countersigned by the secretary,

8th. See that the orders of the ayuntamiento, which are committed to his charge, are duly complied with,

9th. And finally, he shall see that each one of the articles of this ordinance are duly and strictly complied with.

CHAPTER IV.

OF THE DUTIES AND POWERS OF THE AYUNTAMIENTO, AND OF THE REGIDORS AND SINDICO PROCURADOR.

Art. 24. The regidors and procurador have the right of speaking and voting in the ayuntamiento, and that body shall faithfully discharge all the duties prescribed by law No. 37, regulating the Executive Department of the State Government, and especially from art. 97 to 157, inclusive, of said law, adopting the necessary measures for that purpose.

Art. 25. The alcalde, regidors and procurador can be accused before the ayuntamiento, by any individual of that body, for any neglect of duty in their respective offices.

Art. 26. The ayuntamiento shall also watch over the conduct of the officers of the national government within their jurisdiction, and report any mal-conduct of said officers to the alcalde, and the sindico procurador shall deliver to him such documents as he may have on the subject and deem necessary, in order that the said alcalde may report the same to the government, to be acted upon as it may deem proper.

Art. 27. The sindico procurador is the procurator, (personero) of all the civil affairs of the municipality, and it is his duty to render an account to the ayuntamiento of the state of said affairs.

Art. 28. The ayuntamiento can enact municipal regulations (bandos) relative to the affairs of police and good order, basing them on the laws, and causing them to be obeyed by fines, applicable to the municipal funds; and it can particularly pass regulations or orders on the following subjects:

1st. Establishing the boundaries of the town and lands, appertaining to it, which cannot be given to individuals, because they belong to the permanent funds of the town, fondo de propios.

2d. Relative to the height, quality and construction of all fences of fields, pastures, pens, or other lots.

3d. Relative to the roads and public bridges of the jurisdiction, specifying the manner of establishing and laying them off, opening and completing them, either by means of a tax in money, or by the personal labor of the inhabitants, divided in just and equitable proportions according to the circumstances.

4th. Relative to the timber and woods belonging to the commons of the town, and fining those who cut wood from them, without permission from the corporation.

5th. Relative to ferries over the rivers, where it is necessary to keep boats; granting licenses to individuals to establish them, subject to such rules and instructions as the ayuntamiento may make on the subject.

6th. Relative to the firing of the prairies or woods to the prejudice or injury of individuals.

7th. Relative to the appointment, duties, and emolument of the public surveyors of the municipality, to survey scientifically the public roads, also the streets, public squares and lots of towns, according to their original plans; and, also, all tracts or portions of land which may be sold by the inhabitants to each other, in order to prevent titles or deeds for land, from being made between individuals, without a previous scientific survey, by a surveyor appointed for that purpose, who shall be responsible for the exact and faithful discharge of his duties; because, without this precaution, there will be numberless sales and transfers of land between individuals, with the limits designated by imaginary lines, without being measured or marked; the inevitable result of which, must be confusion and litigation, in future, between adjoining proprietors; and it being the duty of the ayuntamiento to watch over the interests of the inhabitants, and the tranquility of the municipality, it should particularly do so by the appointment of municipal surveyors, and the regulation of their duties.

8th. Relative to the extermination of wolves, tigers and other animals of prey; and prohibiting the useless destruction of deer and buffalo.

9th. Relative to horses, mules, cattle, sheep, goats, hogs, etc. that have strayed off from their owners.

10th. Relative to tippling shops, taverns, drunkenness and

gambling, in order to prevent the abuses, disorders and evils resulting from unrestrained liberty in those things.

11th. Relative to poor orphans, beggars, cripples, and infirm aged persons, who are incapable of supporting themselves.

Art. 29. The ayuntamiento, so far as circumstances will permit, shall promote the establishment of a school in the capital of the municipality, for the purpose of teaching the English and Spanish languages, for which purpose they will form a plan and transmit it to the governor, through the regular channel, to be presented to the legislature for approval.

Art. 30. The attention of the ayuntamiento shall be principally and particularly directed to the local police of the municipality, comprehending the important subjects: the security of persons and property of the inhabitants, the public health and convenience, and the ornament, regularity and good appearance of the town.

Art. 31. These objects shall be divided out amongst permanent committees, who shall execute the orders and instructions issued on the subject by the ayuntamiento, observing also the provisions of law 37.

CHAPTER V.

OF MEETINGS ON DAYS OF PUBLIC FESTIVALS.

Art. 32. The ayuntamiento shall convene on the days designated by law as National Festivals.

Art. 33. Whenever that body is convened by the president, to any of the above named sessions, no member shall fail to attend without a good and sufficient reason under the penalty of three dollars, applicable to the municipal funds.

Art. 34. On such occasions the military, and national and state officers, shall take the station in the ayuntamiento next after the alcalde.

Art. 35. The uniform and badges designated by law, are the only ones which shall be used on such occasions; and they shall be worn with proper decency and decorum.

Art. 36. Should the governor or lieutenant governor of the state visit this town, and wish to attend any such public sessions, a committee of the ayuntamiento shall wait upon him, at his lodgings and conduct him from thence to the municipal hall, to proceed from thence to the church, in procession, and at the conclusion, the same committee shall reconduct him back to his lodgings.

CHAPTER VI.

OF THE SECRETARY OF THE AYUNTAMIENTO.

Art. 37. It shall be the duty of the secretary to record all the acts of the ayuntamiento, in both the English and Spanish languages, placing one opposite to the other, in the same book, to avoid mistakes.

Art. 38. He shall also translate into English, in writing, all the orders and decrees which he may receive from the ayuntamiento or its president; and he shall file such translation with its respective original, to prevent their being lost or misplaced; it being well understood that, should the secretary fail to comply with the duties imposed on him, by this and the foregoing article, he shall suffer the penalty of twenty-five dollars, applicable to the municipal funds.

Art. 39. The secretary shall keep a book of acts, in which shall be recorded a brief, clear and substantial account of all matters discussed and put to vote in the ayuntamiento, and of every resolution of that body, whatever may be its nature.

Art. 40. He shall give information on any subject, whenever it may be necessary for him to do so, but without taking part in the discussion.

Art. 41. He shall, on the opening of each session, read the record of the proceedings of the last session, which being approved of, or amended, by that body, he shall render an account of the public correspondence and all other matters which may have occurred.

Art. 42. The archives of the ayuntamiento shall be under his charge and responsibility; and he will deliver such documents as may be called for by the committees, alcalde, regidors, state's attorney, attorney appointed by the ayuntamiento to defend its interest, or any other public functionary, requiring a receipt from the person taking such documents.

Art. 43. He shall not permit any individual (not comprehended in the preceding article) to take from the office, any papers or documents that have been filed or recorded; but he can permit the examination of them in the office, and in no other way.

Art. 44. He shall also execute whatever the corporation may order relative to the discharge of his duties.

Art. 45. The secretary, as an individual of the ayuntamiento, shall attend all the public sessions, on festival days, and shall wear the badges and uniform corresponding to him, and shall take the seat next after the procurador.

Art. 46. He can be removed from his office by a resolution of the ayuntamiento; but his salary cannot be augmented or diminished without the approbation of the government.

Art. 47. In case of the sickness, absence, or other impediment, which prevents the secretary from discharging his duties the ayuntamiento, can appoint an individual to supply his place, in conformity with art. 149, of law 37, regulating the executive department of the state government.

CHAPTER VII.

OF THE MUNICIPAL FUNDS.

Art. 48. There shall be a treasurer, (*depositario*), to take charge of the municipal funds, who shall be appointed by the ayuntamiento annually, under its responsibility: any member can save himself from said responsibility by expressly entering on the journal, at the time the vote is taken, that he did not vote for the person appointed by the majority, and therefore will not be responsible for him.

Art. 49. The treasurer shall keep an exact account, with the proper vouchers of the ingress and egress of all the funds placed under his charge.

Art. 50. The person shall be elected treasurer who receives a majority of the votes of the members present at the election.

Art. 51. The treasurer may be elected from the members of the ayuntamiento, or from the other citizens of the municipality, and he can be re-elected without limit.

Art. 52. The duties of the treasurer shall be:—

1st. To keep an exact account of the ingress and egress of the funds committed to his charge, with each item authenticated by its proper voucher.

2d. He shall only make the payments which may be ordered by the ayuntamiento.

3d. He shall form a general account of said funds at the end of each year, and present it to the ayuntamiento, to be revised, authorised and transmitted to the government for its approbation.

Art. 53. The ayuntamiento shall not order any disposition of said funds, which are not peculiarly applicable to the expenses of the municipality, and which have not been previously approved of by the government.

Art. 54. Should the treasurer make any exhibitions in his accounts other than those above designated, he shall not receive credit for them at the time of revisal and approval of the account.

Art. 55. The treasurer shall receive an emolument of two and a half per cent. on the whole amount of funds he receives during the year of his appointment.

CHAPTER VIII.

OF TAXES, (ARBITRIOS.)

Art. 56. In the years 1829 and 1830, there shall be collected from the proprietors of property hereinafter enumerated, the following sums, to wit: At the rate of four and a half dollars for each league of land; and at the rate of one dollar for each labor granted in the jurisdiction of Austin; half a bit, ($6\frac{1}{4}$ cents) per head, for each head of horned cattle over one year old; four bits per head for each head of American horses; one bit per head for each head of common or unbroken horses or brood mares; two bits per head for each head of mules; six bits per head for each head of jacks (burro;) two cents for each head of hogs; two dollars for each negro servant; one dollar for each town lot; two dollars for each out lot, belonging to the plan of the town.

Art. 57. Each person who exercises the profession of public agent to attend to the business of individuals, before the alcalde of the jurisdiction of Austin, shall pay 25 dollars annually—these persons are those who act as lawyers:—And should the person acting as agent, as aforesaid, be a foreigner, not legally established in this country, he shall pay one hundred and fifty dollars annually to exercise the agency spoken of in the first part of this article.

Art. 58. Each person who sells merchandise in the jurisdiction of Austin, and who is a foreigner not legally established, agreeably to the Law of Colonization, as an inhabitant of said jurisdiction, shall pay to the municipal funds the sum of one hundred and fifty dollars, for each store or establishment, and shall take out a license to that effect, for each store or establishment, from

the ayuntamiento, to sell goods in said jurisdiction for one year from its date; and whoever sells, or attempts to sell, any merchandise whatever, within said jurisdiction, before he shall have presented himself to the ayuntamiento, paid the said hundred and fifty dollars, and taken out said license, shall incur the penalty of treble the amount of said licence.

A foreigner who delivers his merchandise to a citizen of the jurisdiction to sell for him, shall pay five per cent. on the amount of sales, and the person who sells them shall be responsible for the same, for which purpose he shall render a certified account under oath, every three months, to the ayuntamiento, of the amount which he may have sold of merchandise belonging to a foreigner; and shall pay over to the treasurer of the ayuntamiento, every three months, the said five per cent. on such sales, under the penalty of treble the amount which he fails to render an account of.

Art. 59. Each merchant of the jurisdiction, legally established, according to the Law of Colonization, shall pay to the municipal funds twenty-five dollars, for each store or establishment which he may have in the jurisdiction, and shall take out a licence from the ayuntamiento to sell goods within the same, for one year from its date. Whoever sells, or attempts to sell, any merchandise whatever, within said jurisdiction, not being of the produce of the same, before he shall have presented himself to the ayuntamiento, paid the said twenty-five dollars, and taken out the said licence, shall incur the penalty of treble the amount of said licence.

Art. 60. Each person who establishes a tipling shop or grocery, for the retail of liquors, being a foreigner not legally established, shall pay one hundred and fifty dollars a year, for which purpose he shall take out a licence, as in the other cases, and shall be subject to the same penalties, and should he deliver his liquor to a citizen, to sell for him, he shall pay five per cent., as in cases of merchandise, under the same regulations before established.

Art. 61. Each person who establishes a tipling shop or grocery for the sale of liquors, being a citizen legally established, shall pay to the municipal funds fifty dollars a year, and shall take out a license to that effect, from the ayuntamiento, under the same formalities and subject to the same penalties as in other cases.

Art. 62. It is positively prohibited that any person who has not taken out a licence for a tipling shop or grocery shall sell under any pretext whatever, any ardent spirits or wine, in a less quantity than one gallon, English measure; and it is also prohibited that any portion of this quantity be drank in the store, or in its door or porch, portal; whoever fails in complying with this article, shall incur the penalty of paying the value of a retail licence; whoever sells dry-goods in a store licenced as a grocery, shall pay the value of a dry goods licence, besides that of a grocery licence.

Art. 63. Whoever may wish to establish a public house or tavern, shall take out a license to that effect from the ayuntamiento, which shall be given gratis under the regulations and restriction, which it may deem necessary to prevent such taverns from becoming the receptacle of suspicious persons or that any other liquor is sold at them, than what may be necessary for the consumption of the guests. The ayuntamiento shall have said taverns under its inspection, and can annul the licence before mentioned, and exact the value of a tipling shop licence, whenever in the opinion of the ayuntamiento, such tavern has become more properly a tipling house, than one for the accommodation of travellers.

Art. 64. Any sales, of merchandise or liquors, made on board of any vessel or boat in the bays or rivers are comprehended in the foregoing articles.

Art. 65. The ayuntamiento under its responsibility, shall form such general rules, as may be necessary to collect the said taxes, enforcing the exact observance of them by fines, and it shall form a list comprehending the names of each taxable individual and the amount, which he or she has to pay in conformity with the basis herein established; copies of which list shall be put up in 6 public places at least, besides the one which must be posted up at the capital of the jurisdiction, in order that all persons may be informed thereof, which amount shall be paid on or before the first of November, for the year 1829, to the treasurer of the public funds and for the year 1830, the half shall be paid by the first of June and the other half by the first of November, of the said year, and the alcalde at the request of the ayuntamiento shall deliver to the sheriff, alguacil, of the jurisdiction an execution

against the property of the person who fails in said payment, with orders to make the money by the public sale of the property of the delinquent, in the term of twenty days and the cost of said execution shall be paid by the delinquent.

Art. 66. All the funds that remain after appropriating what may be necessary for the court-house, jail and ordinary expenses, shall be applied to the building of a school-house.

Art. 67. All the foregoing taxes shall cease without any pretext whatever, at the end of the year 1830, and the ayuntamiento, shall in anticipation, form and transmit to the government, a plan of permanent or real funds, propios, and taxes, arbitrios, which are to be perpetually collected to meet the ordinary and annual expenses of the corporation.

The Governor of the State shall cause it to be complied with, printed, published and circulated.

Given, in the City of Leona Vicario, 30th May, 1829.

Jose Manuel Cardenas, President—Ramon Garcia Rojas, Member and Secretary—J. Maria Aragon, Member and Secretary.

Therefore, I order it to be printed, published and circulated, and due compliance be given to it.

Leona Vicario, 7th June, 1829.

Jose Maria Viesca.

Santiago Del Valle, Sec. of State.]

[p. 11a] Town of San Felipe de Austin, Dec. 21, 1828.

There was a meeting of the ayuntamiento of the jurisdiction of Austin and the presidents, secretaries, and tellers of the municipal assemblies, which, in accordance with an order, were convoked, as provided by article 164 of the State Constitution, on the second Sunday and day following to elect the members of the new ayuntamiento. From the lists formed in the electoral assemblies the following list of the votes cast for alcalde was made up, as required by article 97 of law No. 37, as well as by articles 99¹⁰ and 100:

¹⁰"Art. 97. In each of the electoral municipal assemblies which are to be held, in conformity with the 164th article of the constitution, on the second Sunday and day following of the month of December, there shall be formed three lists; in one shall be set down the names of the persons voted for for alcalde, without distinction of first, second and third; in another and like manner those voted for for regidores; and in the other those voted for for syndico procurador."

"Art. 99. The two days of election in which the polls are to be kept open being concluded, the president, tellers, and secretary of each elec-

Joseph White received 78 votes, Stephen Richardson 59 votes, and Jonathan C. Peyton 10 votes.

Ira Ingram	Thomas M. Duke
John McCrosky	Thomas Davis
John Hinkson	Rawson Alley
Green B. Jameson	

[p. 12] Town of San Felipe de Austin, Dec. 21, 1828.

There was a meeting of the ayuntamiento of the jurisdiction of Austin and the presidents, secretaries, and tellers of the municipal assemblies, which, in accordance with an order, were convoked, as provided by article 164 of the State Constitution, on the second Sunday and day following to elect the members of the new ayuntamiento. From the lists formed in the electoral assemblies the following list of the votes cast for regidor was made up, as required by article 97 of law No. 37, as well as by articles 99¹⁰ and 100:

Hosea H. League received 108 votes, and George B. Hall 3 votes.

Ira Ingram	Green B. Jameson
John McCrosky	Thomas M. Duke
John Hinkson	Rawson Alley

[p. 12a] Town of San Felipe de Austin, Dec. 21, 1828.

There was a meeting of the ayuntamiento of the jurisdiction of Austin and the presidents, secretaries, and tellers of the municipal assemblies, which, in accordance with an order, were convoked, as provided by article 164 of the State Constitution, on the second Sunday and day following to elect the members of the new ayuntamiento. From the lists formed in the electoral assemblies the following list of the votes cast for sindico procurador was made up, as required by article 97 of law No. 37, as well as by articles 99 and 100:

William Cooper received 82 votes, and Green B. Jameson 33 votes.

Ira Ingram	Green B. Jameson
John McCrosky	Thomas M. Duke
John Hinkson	Rawson Alley

torate assembly shall form a list of the votes received by each individual, which being done, it shall be signed by said president, tellers and secretary, and sealed up and delivered to the secretary of the ayuntamiento."

[p. 13] San Felipe de Austin, January 1, 1829.

The ayuntamiento of the jurisdiction of Austin met. Present: Alcalde Thomas M. Duke, *Regidor* Thomas Davis, and *Sindico Procurador* Rawson Alley. Absent: *Regidor* Humphrey Jackson. There were also present the newly elected members, with the exception of William Cooper, *sindico procurador* elect, who was absent. The retiring president, in conformity with the first article of the municipal ordinance,¹¹ as well as in conformity with article [104] of law No. 37, received from the incoming president, Joseph White, the oath prescribed by article 220 [of the Constitution]. He in turn received the oath from Hosea H. League, as *regidor* in accordance with the articles of the ordinance, law No. 37, and Constitution cited. Thomas Davis in conformity with article 162 of the Constitution remained [*regidor*] from the past year, and *Sindico Procurador* William Cooper being absent, did not take the oath.

Thomas M. Duke.

Samuel M. Williams, Secretary pro tem.

[p. 13a] Town of Austin, January 10, 1829.

The ayuntamiento met in special session, with the president and the two *regidores* present, the *sindico procurador* being absent. The question for discussion was submitted and the president recognized H. H. League, 2d *regidor*, who said that for the better procedure (*arreglo*) of this ayuntamiento, as well as to discharge the duties imposed on the body by the laws, it is very necessary to appoint a secretary acquainted with the two languages, and with sufficient knowledge to attend to its business. With this object he proposed that this ayuntamiento appoint Citizen Samuel M. Williams Secretary of this ayuntamiento, with the salary which this body may consider necessary in order that the said Williams may be able to accept the office. This body authorized Mr. League, the Secretary pro tem., to send to the said Williams by letter notice of his appointment.

J. White.

H. H. League [Secretary] pro tem.

¹¹See above, p. 311.

BOOK REVIEWS

The Early History of Cuba, 1492-1586. By Irene A. Wright.
(The Macmillan Company. New York. 1916. 371 pages
with Glossary and Index.)

This book, as the preface states, is the first history of Cuba written from the original sources. It is divided into four sections corresponding with the same number of periods. The first, from 1492 to 1524, describes the conquest and early settlement of the Island by the Spaniards. Some account of the first voyages of Columbus is given, the work of Ovando at Española is described, Las Casas' blood-hound episode is revived, and finally we are given a picture of the early conquest and government of Cuba by Velásquez. The latter is shown in the unusual unfavorable light. With Cuba and the West Indies established as a base of operations, and weakened by the migration of settlers to *tierra firme*, the writer returns to "An Era of Stagnation (1524-1550)." Four chapters are devoted to the relation of events in Cuba, one treats of the early Florida expeditions from the viewpoint of Cuba and another (with XVI the most enlightening in the book) deals with the social, municipal, agricultural and commercial development of the Island during this period. Notwithstanding the title of this section it is possible to see that the Spaniards were established on a firmer foundation than is suggested, perhaps, by the term "Pestilence of the Repartimiento."

The third division of the book traces the history of Cuba under the "French Influence," which, we note, is the author's way of characterizing the piratic efforts of certain individual Frenchmen after 1537. Of French hostility there seem to have been two periods, before and after 1568, the first being manifested by piracy and annoyance, such as isolated attacks on towns and fleets, and the second, based on more intense international rivalry, induced by the failure of the Canadian expeditions. The result of this period was the fortification of Havana, and the inauguration of *armadas* for the protection of the fleets against French attacks. The occupation of Florida and the career of Menéndez de Avila are given briefly from the Cuban viewpoint, with em-

phasis as usual on Spanish savagery. The fourth and final section of the book treats of the danger of the English (1567-1586). It gives briefly the European political setting: a background of Elizabeth's change of policy, the new commercial England, and it ends with the operation of Drake in the West Indies. The effect of these events on Spain's policy and methods in Cuba were that "Spain took a firm hold at last upon her priceless possession of Cuba: 'bulwark of the Indies, key to the New World.' The Island ceased to be a wayport of empire, a mere base of operations for exploitation of Mexico, the southern continents and Florida. It came to be prized not alone for its strategical importance but also somewhat for its own inherent value in sugar, in copper and in woods."

This book, as the author announces in the introduction, was written on the basis of original documents existing in the Archive of the Indies at Seville, "with regard, however, to the few published works which are of value in a study of this portion of Cuba's development." The author then proceeds to a statement that the history of the Island has not been written until this present book. The statement is also made that in the compilation of this book, secondary books have been ignored, even Pezuela, because of the confidence that "there has passed through my hands a greater wealth of material for the writing of the history of Cuba than any other person has handled." It is usually dangerous to attempt a treatment of the institutions of Spanish America, even in the early period, without a reference at least, to the recognized authorities who have written on the general subject. It is axiomatic that the exclusive use of documents may and almost always does lead one astray. Surely the judgment of those who have already written on Cuba and Spanish America should not be laid aside so summarily. Solórzano, Helps, Bancroft, Robertson, Lowery, Vander Linden, Moses should be considered when one traces the early institution and movements in Spanish America.

Although the writer acknowledges the necessity of citing authorities, there is not a direct citation in the book. The author has incorporated an imposing-looking legajo-list in the foreword of each section, but this is not sufficient. A multitude of errors

may be concealed in a legajo-list, and any scholar who desires to verify a statement or follow a lead indicated in this book will have to search through fifty legajos at least. For this technical reason alone the book will fail to convince. It is avowedly an attempt at historical scholarship, composed without the necessary tools, and written in popular style, wherein Cuba is referred to as "a lemon little worth of squeezing" (p. 212), Mazariegos is characterized as "the man for the job" (p. 245) and Gallegos got a "ducking in the bay," being "doused" (p. 274) repeatedly.

The most serious defect of the book lies in its lack of perspective. While the *repartimiento* may have been a pestilence in Cuba, there is no inkling of the author's appreciation of its benefits in Cuba or elsewhere. The Church, the Inquisition and Spanish bigotry are all characterized as if for the first time, when, as a matter of fact, only the old-fashioned or extremely superficial historical writer harps on that chord any more. It seems strange that more than a year of research in the best colonial archive in Spain could not be productive of a more enlightening and sympathetic treatment of Spain's early colonial institutions, which were a hundred years in advance of those of any other colonizing nation. A very summary review of the obvious phases of English and French history will reveal that Spain was not alone in religious bigotry. The same may be said with regard to Spain's lust for gold, the blood-hound hunts and other cruelties so maliciously perpetrated. (Compare New England cruelties in Pequod and King Philip's Wars.) Unfavorable comment abounds in this volume relative to Spain's restrictive commercial policy, with contrasts to that of England and France. The author misses the splendid opportunity to recognize that Spain was a pioneer in the upbuilding of a commercial and colonial system and that her errors were but little more extensive than those of her competitors, during the early period. History does not justify the depiction of Drake and the other freebooters of his nation and time in the rôle of angels of righteousness and deliverance (see pages 28-36, 195-196, 211-212, 243-244, 271, 272.) However accurate may be the statements which Miss Wright makes, there is an undue and disproportionate emphasis on the defects and too little reference to the constructive work of Spain which was to

obtain through three centuries and lay the racial, social and political foundation for a discriminating and intelligent Commonwealth.

Untranslatable Spanish words are very properly used in the text, but as long as it is possible to be absolutely correct, there is no excuse for the total absence of accents from such words as *bohío*, *cédula*, *maravedí*, *clérigo*, *inéditos*, *colección*, *cámara*, *fundición*, and every other word requiring an accent. *Naburia* (on page 152) appears as *naboria* on 195. One is correct. *Mara vedises* (174) is inaccurate. It is to be hoped that the volume which succeeds this, if there be one, may be written in the third person, and not in the first. Because it is written in English and gives a connected history of Cuba in the sixteenth century, this volume will be of use to the general reader and the classroom student.

NEWS NOTES

The annual meeting of the Pacific Coast Branch of the American Historical Association was held at Berkeley, California, on November 30 and December 1. At that meeting two papers of general interest to students of Spanish-American history were read. These papers were "A Forgotten Pioneer of American History—John Gilmary Shea," by Father Joseph Gleason, of Palo Alto, California, and "The Influence of the United States in the Opening of the Amazon River to the World's Commerce," by Professor Percy A. Martin, of Stanford University.

Officers of the association for the ensuing year are: President, Rev. Joseph Gleason, Palo Alto, California; Vice-President, Professor O. H. Richardson, University of Washington; Secretary-Treasurer, Professor W. A. Morris, University of California; Members of the Council, Professor E. M. Hume of the University of Idaho, R. C. Clark of the University of Oregon, Waldemar Westergaard of Pomona College, and Miss Edna Stone of the University High School, Oakland, California.

Mr. E. L. Doheny, Los Angeles multi-millionaire oil operator, has given \$100,000 as an endowment for the Doheny Research

Commission of the University of California. The purpose of this commission is to make a thoroughly scientific investigation of conditions—economic, social, and political—of Mexico at the present time. The results of the commission's investigations are to be published when completed.

The executive committee of the commission is composed of Professors Herbert E. Bolton and Bernard Moses of the University of California; Professor Chester Lloyd Jones of the University of Wisconsin; Dr. Thomas Jesse Jones of the Bureau of Education; Dr. Fred W. Powell, of New York, and Professor G. W. Scott of Occidental College. Other members of the commission are Dean F. H. Probert and Professors Herbert I. Priestley and Jessica Peixotto of the University of California; Professor Richard T. Ely of the University of Wisconsin; Dr. James A. Robertson of the Carnegie Institution; Professor Percy A. Martin of Stanford University; Professor Theodore Macklin of Kansas State Agricultural College; Professor W. W. Cumberland of the University of Minnesota; Dr. E. B. Christie of the Bureau of Ethnology; Dr. Arthur Young of Princeton University; Professor R. G. Cleland of Occidental College; Dr. H. E. Bard of the Pan-American Society, New York; Dr. H. M. Branch of New York and Mexico City; and Dr. E. C. Moore, President of the Los Angeles State Normal.

Judge Seth Shepard died at Washington, D. C., December 3, 1917. Judge Shepard secured the return to the State of the original manuscript declaration of the independence of Texas, which had found its way into the archives at Washington. He contributed the "Introduction" and an account of "The Siege and Fall of the Alamo" to "A Comprehensive History of Texas."

The Texas History Teachers' Bulletin, VI, No. 1 (November, 1917), prints ten letters written to Stephen F. Austin during 1821 and 1822 "which show the widespread interest in Austin's Colony in the United States and the motives of those who wished to emigrate."

Two letters from Frederick Law Olmsted, dated July 6 and 26, 1857, are printed in the *American Historical Review* (October, 1917). These letters, to quote the words of the editor, "Reveal

an attempt made in 1857 by the New England Emigrant Aid Society to enlist the aid of English cotton manufacturers in colonizing free laborers upon new land in the southwest of the United States."

"The Baptistry Window of the Mission of San José de Aguayo" is the title of an article by Harvey Partridge Smith in the *Western Architect* (November, 1917). It is illustrated. This window "is considered by connoisseurs to be the finest single bit of Spanish-Colonial ornamentation existing in America."

In the *New Yorker Staats-Zeitung*, September 11 to 21, 1917, appeared the following: "Die Deutschen in Texas während des Bürgerkrieges. Nach Aufzeichnungen von Richter A. Siemering, San Antonio im Jahre 1876."

"The mission as a frontier institution in the Spanish-American Colonies," by Dr. Herbert E. Bolton, appeared in the *American Historical Review* (October, 1917). It presents a summary of original researches into Spanish institutions in the Southwest that will mark an epoch in this field of study.

The centenary of the birth of Ernst Gustav Maetze was commemorated by his former pupils in unveiling a tablet to his memory at Oak Knoll Cemetery, Bellville, Texas, and an address at Millheim by W. A. Trenckmann, September 12, 1917. The address traced the life of Maetze and is printed in *Das Wochenblatt*, September 19.

"The assault upon the University of Texas" is dealt with by writers in *School and Society* (August 11 and September 1 and 29, 1917); *New Republic* (August 11, 1917); *The Outlook* (October 10, 1917); *Educational Review* (November, 1917), and *The Alcalde* (November, 1917).

William A. Eckhardt, a pioneer and prominent merchant of Yorktown, Texas, died at his home in that city October 29, 1917. A sketch of his life, written by Chas. F. Hoff, appeared in the *Yorktown News*, November 22.

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OF THE

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THE
SOUTHWESTERN HISTORICAL
QUARTERLY

VOL. XXI

APRIL, 1918

No. 4

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CONTENTS

THE POWERS OF THE COMMANDER OF THE CONFEDERATE
TRANS-MISSISSIPPI DEPARTMENT, II - Florence Elizabeth Holladay - - 333
THE UNITED STATES GUNBOAT HARRIET LANE - Philip C. Tucker, 3d - - 360
HAMILTON STUART: PIONEER EDITOR - - - - Ben C. Stuart - - 381
THE NATIVE SONS FELLOWSHIPS - - - - Charles E. Chapman - - 389
MINUTES OF THE AYUNTAMIENTO OF SAN FELIPE
DE AUSTIN, 1828-1832, II - - - - Edited by Eugene C. Barker - - 395
BOOK REVIEWS AND NOTICES: Sprunt, *Chronicles of Cape Fear River*,
1660-1916 - - - - - 424
NEWS ITEMS - - - - - 425
AFFAIRS OF THE ASSOCIATION - - - - - 427
INDEX - - - - - 429

PUBLISHED QUARTERLY BY
THE TEXAS STATE HISTORICAL ASSOCIATION
AUSTIN, TEXAS

Entered at the post-office, Austin, Texas, as second-class mail matter

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The Association was organized March 2, 1897. The annual dues are two dollars. THE QUARTERLY is sent free to all members.

Contributions to THE QUARTERLY and correspondence relative to historical material should be addressed to Eugene C. Barker, Austin, Texas, or to Herbert E. Bolton, Berkeley, California.

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THE SOUTHWESTERN HISTORICAL QUARTERLY

VOL. XXI

APRIL, 1918

No. 4

The publication committee and the editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

THE POWERS OF THE COMMANDER OF THE CONFED- ERATE TRANS-MISSISSIPPI DEPARTMENT, 1863-1865

II

FLORENCE ELIZABETH HOLLADAY

5. *Extraordinary Military Powers*

We have seen that first the president and later Congress had agreed to the establishment of the various war department bureaus in the Trans-Mississippi and of other necessary agencies of the government. It now remains to indicate General Smith's actual relations of these bureaus in operation and his control over the promotion and appointment of officers, the exchange of prisoners, and the suspension of the writ of habeas corpus.

General Smith had established his headquarters at Shreveport, Louisiana, because it afforded easy communication with the several district headquarters and was sufficiently near the frontier lines in both Arkansas and Louisiana. From this capital he issued orders to subordinates, received their reports, and made his final decisions on questions submitted to him much as did the president and his cabinet officials at Richmond. From here on July 25, 1863, he issued a general order to the effect that, on account of interruption of communication with the seat of government, all officers and agents connected with the army on duty in the department and acting under orders from Richmond, would in future receive their instructions from the department commander; and

each officer and agent was ordered to report at once the nature of his duty, the authority under which he was acting, and the extent of his operations.³⁸ Agents who had been sent out from Richmond were thus made responsible to the commander. He proceeded next to organize his military bureaus and announced a chief for each branch of the service; then he ordered all officers and agents connected with that branch to report to this chief. The ordnance bureau was located at Marshall, Texas, under Major General Benj. Huger; the quartermaster's, subsistence, and medical bureaus at Shreveport until removed to Marshall in May, 1864, under Lieutenant Colonel L. W. O'Bannon, Major W. B. Blair, and Surgeon J. M. Haden, respectively.³⁹ All other bureaus were in Shreveport. T. G. Clemson was made head of the nitre and mining service, July 11; Colonel B. Allston was appointed inspector general for the department; Brigadier General E. Greer was made head of the conscript service, and R. S. Thomas of the army intelligence office. Later the labor bureau and others, even a navy office, were organized in the same manner. All returns and reports which the Regulations of the Army required should be sent to the heads of bureaus in Richmond, were hereafter to be sent to the chiefs of the respective bureaus in the Trans-Mississippi Department.⁴⁰ This established a complete military administrative system for the department separate from but patterned after that at Richmond. It is hardly profitable here to trace step by step the evidences of the commander's control of these agencies. Officers were removable at his will; and in some instances, he refused to remove officers appointed by himself to make a place for others sent from Richmond with instructions to be assigned to a particular place.⁴¹ A few of the most important bureaus only need be considered here.

Organization was made of first importance in these agencies. A special form of bond was devised and required of each officer in

³⁸General Orders No. 31, *Off. Recs.*, XXII, ii, 948.

³⁹See various General Orders, *Off. Recs.*, XXII, ii, 828, 969, 991; also Huger to Johnson, *ibid.*, 1139, and Smith to Davis, *ibid.*, 1003-1004.

⁴⁰Smith to Cooper, July 11, 1863, *Off. Recs.*, LIII, 876-877; General Orders No. 33, May 30, 1864, *idem.*, Vol. XXXIV, iv, 635-636; Vol. XLI, iv, 1030, 1082; *The Galveston Weekly News*, March 13, 1865.

⁴¹Smith to Cooper, December 3, 1864, *Off. Recs.*, XLI, iv, 1094. But see *ibid.*, 1122.

the quartermaster's and subsistence bureaus. Accuracy was insisted upon. Returns were required of quartermasters and commissaries, first quarterly, later by the fifth day of each month, in order to weed out incompetents.⁴² To aid the bureau of subsistence, the department was divided into four districts; the agents were empowered to impress supplies where necessary, but must send complete reports to department headquarters. The clothing bureau was in charge of a quartermaster and was a subdivision of the quartermaster's bureau. Its work was extensive. There were depots for hats at Shreveport, Louisiana, and Jefferson, and Tyler, Texas; for shoes at Washington, Arkansas; Shreveport, Louisiana; Jefferson, Tyler, Houston, and Austin, Texas. Looms, factories, and foundries were located at these and other important points, in which were made all kinds of clothing, blankets, tents, and other textiles which were needed for the army. The commander kept a close surveillance over all these activities.⁴³ Officers in charge of depots were ordered to issue supplies only under instructions from, or, on requisitions approved at, department headquarters. Frequent inspection of district depots was ordered, and all reports were directed to be sent to the commander.⁴⁴

The chief of ordnance, Major Rhett, was a member of General Smith's staff, but the ordnance bureau was at Marshall under Major General Benj. Huger. The former had control of the location of foundries, the contracts for the manufacture of arms and ammunition, and the approval, subject to the commanding general, of the requisitions for arms and ordnance stores. Major Huger received the returns, examined, recorded, and when necessary corrected them; then, as opportunity afforded, sent them to Richmond. He also distributed funds when they were available, and saw that they were properly spent. The purchase of ordnance stores that could not be furnished by the foundries in the department was made by General Smith through his agents, whom he sent to Mexico, to the West Indies, and to Europe for this purpose.⁴⁵

In March, 1864, Surgeon J. M. Haden was made chief of the

⁴²*The Galveston Tri-Weekly News*, March 11, 1865.

⁴³See generally, *Off. Recs.*, XXII, ii, 1080, 1134-42.

⁴⁴General Orders No. 7, March 3, 1864, *Off. Recs.*, XXXIV, ii, 1014.

⁴⁵Various bureau reports to Johnson, *Off. Recs.*, XXII, ii, 1139-42.

medical bureau, and Surgeon D. W. Yandell succeeded him as medical director. Under these were placed all the surgeons and medical purveyors of the four districts. A system of hospitals was developed. The commander appointed all medical and military examining boards and issued the necessary invitations to persons to appear before them. These boards became permanent in 1864, and in December were ordered to report January 1, and quarterly thereafter, both to the medical bureau and to the medical director at department headquarters.⁴⁶

Authorities on both sides of the river realized the great importance of strengthening the conscript service in this department. Soon after the conscription bureau was organized under Brigadier General Greer, Smith authorized him to enroll all men of military age. This plan for a strict enforcement of the conscription law had been agreed to by the State authorities in the Marshall conference and not only did the secretary of war approve the order but he maintained from the first that a separate and special branch of the conscript service should be set up in the Trans-Mississippi. On July 25, 1863, the commander announced that the "enrollment of conscripts is solely under the direction of the conscript bureau, the officers thereof acting under orders from department headquarters," and all other officers were forbidden to enroll persons of conscript age for any purpose whatever, unless authorized by the department commander.⁴⁷ All clerks and employes of military age were ordered to enroll; all able-bodied men, except artificers and mechanics, serving in staff departments, were instructed to join their companies, unless specially detailed by district commanders, who had to prove the necessity for their services. Men disabled for active service were to be assigned to the places thus made vacant.⁴⁸ The commanding general alone controlled the detail of conscripts. General Smith thus exercised the powers, in this and other bureaus in his department, which the secretary of war would normally exercise over the whole military area of the Confederacy.

⁴⁶General Orders No. 9, March 25, 1864, *Off. Recs.*, XXXIV, ii, 1082; see inspection report of J. P. Johnson to Cooper, February 16, 1864, *idem.*, XXII, ii, 1129-33; General Orders No. 99, December 28, 1864, *idem.*, XII, iv, 1130.

⁴⁷General Orders No. 31, July 25, 1863, *Off. Recs.*, XXII, ii, 948.

⁴⁸General Orders No. 36, August 14, 1863, *Off. Recs.*, XXII, ii, 967

In the matter of appointments, General Smith's power, as has been shown, was limited by the president; but peculiar conditions in the department made it necessary for him to exercise this executive prerogative notwithstanding. On assuming command, he found that the organization of the army was defective. Many brigade and regimental staffs had no bonded nor commissioned disbursing officers. The quartermaster and subsistence bureaus had none. To correct this evil, a bond was prepared and required to be executed by all purchasing and disbursing officers.⁴⁹ The president, though acquiescing in the bonding of officers, was very jealous of interference in the appointment of field officers. General Smith, in 1863, appointed men to command the volunteer organizations of the Indians and assigned a few officers to advanced rank, but the president refused to agree to these promotions.⁵⁰ However, after the campaigns in Louisiana and Arkansas in 1864, when it was necessary to reward valor and good service, the general used this prerogative to a greater extent. In April, he advanced two officers to the rank of major-general, two others to that of brigadier, and appointed two captains; in May, four brigadiers, one colonel, one captain, and one lieutenant were promoted, each to the next higher rank, subject to the approval of the president. The men thus promoted were usually addressed and ranked with the advanced titles from the date of Smith's orders announcing the advancement.⁵¹

At the first opportunity, the general sent his report with the list of his promotions to the president for his approval. Secretary Seddon replied:

. . . There is one subject on which it will be expedient you should be as careful and abstinent as the imperative needs of your department will allow. It is on the delicate subject of assignments and appointments to office and command. These under our constitutional system are reposed in the president as a personal trust,

⁴⁹Smith to Seddon, November 7, 1863, *Off. Recs.*, XXII, ii, 1061; also inspection report of J. P. Johnson to Cooper, February 16, 1864, *idem.*, 1128.

⁵⁰Seddon to Smith, September 7, 1863, *Off. Recs.*, Vol. XXVII, ii, 212-213; *The Galveston Tri-Weekly News* (Houston), September 18, 1863.

⁵¹*Off. Recs.*, XXXIV, iii, 764, 768, 770, 823, 828; *The Galveston Tri-Weekly News* (Supplement), May 22, 1864.

the responsibility of which is fully realized by him, and which he cannot transfer.⁵²

The secretary also stated that it would be better, when possible to do so, for the general to make his recommendations to Richmond before assigning anyone to command. The president appointed only two of the nominees, because he lacked full returns of the forces in the department; he deferred others because, from the returns on hand, it appeared that with the new promotions there would be more general officers in the department than divisions and brigades for them to command.

In October, the names of the two lately nominated captains were dropped from the rolls as officers, because the president had failed to appoint them; other officers, however, were continued in the places to which they had been advanced despite the president's failure to approve them. October 28, the commander in reporting to General Cooper the returns for the army for September, 1864, urged through him the confirmation of the nominations, stating that the officers were acting with advanced rank. The returns referred to showed twenty-nine brigades organized into eleven divisions and four corps. To command these, there were one general, eight major-generals, and twenty-two brigadier generals. General Smith called attention to these divisions to show that he needed the advanced officers, but General Cooper maintained that three of the corps were little larger than divisions and should be consolidated, and the general would be supplied with officers.

"The president instructs me," Cooper concluded, "to say that it is improper for you to announce the promotion of general officers and assign them to duty before they are appointed by him. . . . Action here must take place before they can be promoted and assigned to duty."⁵³

From this and Seddon's letter, the attitude of the president is sufficiently clear, but it is difficult to harmonize it with his own endorsement of October 2, 1863, when he said: "Promotions, elections, examinations may occur and be acted on for the time." General Smith made at least thirty promotions, probably more, and it appears that only five of them were approved.

⁵²Seddon to Smith, June 15, 1864, *Off. Recs.*, XXXIV, iv, 672.

⁵³Cooper to Smith, December 23, 1864, *Off. Recs.*, XLI, iv, 1121-22.

These differences seem to have been the result of considering the organization of the army from different points of view. General Smith's organization was the result of conditions; the large territory he had to defend, the long line of frontier he had to guard, and the depleted ranks of his army made it necessary, in some instances at least, to have divisions and corps composed of fewer men than the army regulations required. On the other hand, the officials at Richmond seem to have computed from his reports the number of officers he needed by mathematical application of the regulations. There is justification for both sides, but working at such cross purposes forced General Smith, in this instance, to exercise so extraordinary a power that it might easily be interpreted as insubordination; for only in rare cases does it appear that officers advanced to higher rank were ever dropped therefrom, and so, to all practical purposes, the promotions were actually made.

Field commanders anywhere were permitted to exchange men whom they had captured for prisoners from their own commands; but, if a commander held a surplus of prisoners, the exchange was made by a special officer, usually an agent of exchange. By September, 1863, there was so large a surplus of prisoners west of the Mississippi that the problem of taking care of them was becoming difficult. At the suggestion of Colonel Robert Ould, agent of exchange, Major Szymanski was sent from Richmond to the Trans-Mississippi Department by the secretary of war with instructions to collect and report information about the prisoners, to instruct commanders as to the form of lists and paroles, and, where possible, to make exchanges.⁵⁴ Major Szymanski's instructions did not mention the relation that he should sustain to the commander of the department; but it seems at first that he acted solely under orders from Richmond. By the last of November he had established headquarters at Alexandria, Louisiana, from which place he wrote the district commanders, enclosing a copy of his instructions with proper forms for paroles and requesting each of them to send him lists of all prisoners with the necessary infor-

⁵⁴Ould to Seddon, September 10, 1863, *Off. Recs.*, Series II, Vol. VI, 278; Ould to Szymanski, September 25, 1863, *ibid.*, 320-321, and numerous other places in this volume show the general regulations for exchanging man for man and officer for officer in a command.

mation concerning them.⁵⁵ If these reports were made, the files available do not contain them. In May, 1864, General Smith in two general orders required lists, including all necessary data, of all prisoners captured and of all paroles to be made in duplicate, one copy to be sent to department headquarters and the other to be kept on file by the officer making the capture. In neither of these orders is Major Szymanski mentioned, but he appears soon afterwards acting under Smith's orders.⁵⁶ After this the general often sent the major to negotiate cartels; in each case authorizing him to what extent to act. On July 4, Major Szymanski was announced head of exchange for the department by General Smith.⁵⁷ Lists of all prisoners captured, and all paroles made were ordered sent to him, and his headquarters were soon moved to Shreveport. At times, his instructions sent him to arrange cartels for the different districts; again, he was authorized to arrange one which should be general throughout the region where the Union forces were serving in the Department of the Gulf; while at other times, as September, 1864, he was empowered to arrange for the exchange of naval prisoners; but, in each instance, his instructions came from Smith and all points not covered in the instructions were referred to Smith and were decided by him.

The suspension of the writ of habeas corpus was a war power of the Congress of the Confederate States. Although General Smith was authorized by the act of February 15, 1864, to exercise this power, he avoided it as much as possible because he knew that the people disliked any subordination of the civil to the military authority. Available records show no attempt of the commander to use this prerogative before he was authorized to do so by Congress.

In Texas, there were few cases of suspension of this writ, and usually these were followed by a clash with the State courts. In the fall of 1863, several persons suspected on strong evidence of treasonable designs were arrested and confined in jail by Magruder. The next spring others of their confederates were arrested. Soon

⁵⁵Szymanski to Yancey, November 29, 1863, *Off. Recs.*, Series II, Vol. VI, 559-560.

⁵⁶General Orders No. 31, May 28, 1864, *Off. Recs.* Series II, Vol. VII, 174-175; General Orders No. 32, May 29, 1864, *ibid.*, 179; Szymanski to Canby, June 17, 1864, *ibid.*, 375.

⁵⁷General Orders No. 50, July 4, 1864, *Off. Recs.*, Series II, Vol. VII, 440.

all these prisoners appealed to the state supreme court for release on writ of habeas corpus. Smith ordered them detained and the writ suspended in their cases and the military officers under Magruder took the prisoners from the custody of the court. The court held that the law of February 15, 1864, did not apply in this case; that the act even conferred no power on the high officers, who were authorized to suspend the writ, to take a person from the custody of the court; that the law did not "forbid or suspend the issuing of the writ"; unless it appeared from the application that relief could not be granted, it should be issued by the court; and that "*it is in all cases* the duty of the party, to whom it is directed to answer it." In other cases, the decisions rendered were practically the same, especially, in the opinion that it is the privilege of the court to determine whether the writ can be granted or not. The criticisms of these courts were directed at the act chiefly and not at the right of the general to exercise the functions delegated to him by the act.⁵⁸

In Louisiana, a number of citizens were arrested and refused trial. In both Arkansas and Louisiana several persons were arrested for trading with the enemy and, in some cases, giving him information. If there were appeals against suspensions of the writ in these states, they are not shown in the available court reports, but in both these states the Confederate state governments were greatly limited in the areas of their jurisdiction. There is other evidence, however, of conflict and protest.⁵⁹

6. *Civil Functions Exercised by the Commander*

The necessity of exercising certain purely civil functions constituted one of the most difficult problems that General Smith had to solve. It has been shown that both Richmond and state officials realized the necessity that the commander exercise some civil authority; and that when Congress had passed acts establishing west of the Mississippi branches of the treasury and postoffice departments and authorizing the general to assume the administrative duties of the war department, the president seemed to re-

⁵⁸*Off. Recs.*, Series II, Vol. VII, 217-220, and Vol. VI, 560-565; *State vs. Sparks*, 27 Texas, 627; *State vs. Sparks and Magruder*, *ibid.*, 705; *Houston Daily Telegraph*, April 18, 1864.

⁵⁹Dorsey, Sarah A., *Recollections of Henry W. Allen*, 247.

gard his powers as adequate for the effective administration of the remaining business of his command. As for the state authorities, Smith understood that both the people and the state officials would be jealous of the accumulation of civil powers in the hands of a military officer. Civil functions, therefore, were assumed reluctantly, and those that were not necessary to his military administration were exercised, in most instances, with the proviso, "subject to the approval of the president."

A primary source of his embarrassments was the condition of the finances. The currency in particular presented a very difficult problem, namely, to obtain a sufficient amount of treasury notes to keep the department from bankruptcy while preventing their further depreciation. From the fall of Vicksburg until the establishment of the treasury agency, July 1, 1864, this entire problem devolved on the commander, who, it appears, was made responsible for all money expended in the department. Throughout the first year of his incumbency he had repeatedly demanded more money in usable form; the Marshall Conference had advised him to procure money for the army by reissuing Confederate notes which had been funded in the depositories, and also instructed him to take charge of the cotton of the department in order to procure funds and prevent speculation and the further depreciation of the currency. General Smith tried to stop the depreciation of the Confederate notes, but the causes were beyond his control. The reverses at Gettysburg, Vicksburg, and Chattanooga, the funding acts, which were looked upon as an acknowledgment that the government could not pay its debts, and the fact that Texas was not only competing with the government in buying cotton but was paying higher prices with bonds hypothecated on the public lands, all contributed to depreciate the currency.⁶⁰ Speculation in the notes increased. Some people refused to accept government money and were promptly reminded by the commander that they were violating the law and were liable to summary punishment.⁶¹ But his threats were of little avail and financial conditions became more and more discouraging. Efforts were made to send money from Richmond, but it was usually confiscated *en*

⁶⁰Schwab, *The Confederate States of America*, 26.

⁶¹*The State Gazette*, Austin, September 30, 1863.

route; while those remittances which arrived were usually in the form of drafts on Richmond and so large that they could not be cashed.⁶² Treasury agent sent over in the winter of 1863 could give but little relief. Soldiers often were not paid for months; and many families of deceased soldiers suffered for want of pay long overdue.⁶³ By December, 1864, only \$8,000,000 had been received of the new issue authorized by the act of February 17, while the outstanding indebtedness of the department had reached \$60,000,000 in spite of the fact that the commander had utilized a great part of the cotton of the department to help supply his needs.⁶⁴

The treasury agency, authorized by Congress in January, 1864, was opened for business in Marshall, Texas, July 1, 1864. P. W. Gray, the agent, assumed charge of the regulation of the currency under the several funding acts, received, deposited, and controlled the funds, and supervised all accounting of the finances. It is difficult to determine the exact relation between the commander and the agent, for though under the strict letter of the law the latter was accountable only to his superiors at Richmond, there are indications that he not only frequently deferred to the wishes of General Smith but in one important matter left under his control business that belonged rather to the treasury than to the military. The funds of this agency came chiefly from two sources, the proceeds from the sale of the government cotton in the department and the funds sent over from the treasury at Richmond. Of the former, Smith exercised general control; his cotton bureau bought cotton and under his orders exported and sold it; he then allowed the treasury agent, Gray, to receive the proceeds, and required him to pay out the same on requisitions approved at department headquarters.⁶⁵ Over remittances from Richmond he exercised no direct control, and these funds were disbursed by the treasury agent upon requisition of the commander.⁶⁶ He detailed men to carry on the work of the agency and interfered by force

⁶²Johnson to Cooper, November 6, 1863, *Off. Recs.*, XXII, ii, 1060-1061.

⁶³Smith to Davis, November 15, 1863, *Off. Recs.*, XXII, ii, 1069-1070.

⁶⁴Smith to Davis, December 13, 1864, *Off. Recs.*, XLI, iv, 1109.

⁶⁵Smith to Gray, October 6, 1864, *Off. Recs.*, XLI, iii, 984.

⁶⁶Meem to Gray, October 21, 1864, *Off. Recs.*, XLI, iv, 1006.

of arms wherever it was necessary to enforce or protect the collection of revenues.⁶⁷ In December, 1864, the control of the cotton was turned over to the treasury agent, but by special arrangements between Gray and the commander, the cotton bureau was given till February 1, 1865, to close up its business. After this, all orders concerning cotton and its exportation were made from the treasury agency at Marshall.⁶⁸ The regulations for the overland trade with Mexico were also now made from the treasury agency.

One other connection with the finances is found in the collection of taxes. The act of Congress of May 1, 1863, "for the assessment and collection of taxes" had provided for the appointment by the president of a state collector for each state, who should in turn appoint local assessors and collectors.⁶⁹ Evidently not all of these appointments had been made by the president when communication was interrupted, for early in September, General Smith, claiming to act under the authority of the president, appointed a tax "commissioner" [collector?] for Arkansas, whom he authorized to appoint in turn county assessors and collectors.⁷⁰ He required that the commissioner prepare printed schedules showing the objects of taxation and the tax on each, require proper bonds from officers appointed, and demand that report be made monthly and that collectors deposit the funds on the last day of each month in the nearest sub-treasury of the government. Until the arrival of an agent of the treasury, duplicate reports were to be sent to headquarters. Delinquents were to be reported promptly to the commander, in order that "corrective and coercive measures" might be adopted. No person could be appointed collector or assessor of taxes who was liable to conscription. These provisions were all in accordance with the act of Congress of May 1.

The tax in kind, levied by the act of April 24, 1863, was col-

⁶⁷Smith to Walker, December 27, 1864, *Off. Recs.*, XLI, iv, 1123-4.

⁶⁸*The Galveston Tri-Weekly News*, November 6, and 23, 1864.

⁶⁹*Statutes at Large of C. S.*, 1st Congress, 140-142.

⁷⁰Circular, September 4, 1863, *Off. Recs.*, XXII, ii, 990-991. Singularly enough, the Circular does not give the name of Smith's appointee, nor has any specific authorization by Davis of this action been found. It is possible of course that this commission, though dated and signed, was never actually delivered to any one.

lected by a different set of commissioners.⁷¹ It was intended that a tithe of the produce made in the year 1863 should be delivered by the farmers to the post-quartermasters not later than March 1, 1864. The plan did not work well in the Trans-Mississippi Department and on September 1, 1864, the commanding general established a bureau at Marshall, Texas, charged with the supervision of the collection of the tax in kind. Major Benjamin A. Botts, quartermaster, was made chief, and all papers in reference to this tax were ordered forwarded to him.⁷² These were the chief agencies for the collection of taxes.

On September 1, 1864, the post-office agency was organized in the department. Although the commanding general detailed men for carrying on its work, as he did for the treasury, there is no evidence that he exercised any direct control over it.

In one other respect the acts of the commander were at least potentially important. The Marshall Conference had counselled sending an agent to Mexico; and plans were begun in August, 1863, to establish amicable relations with both the French authorities there and the governors of the North Mexican States. Agents were dispatched to the crossings on the Rio Grande, and later others were sent to points in the interior to look after the interests of the Trans-Mississippi Department. This quasi-diplomatic function seems to have been exercised only with reference to the French and Mexican powers. The agents on the border were to look after commercial interests, while those in the interior were personal representatives of the commanding general, serving without rank. The Mexican authorities urged General Smith to appoint Captain Ducayet, the chief of these, with rank, but the commander felt that this was beyond his power. He appealed to the president to confer the rank on his agent, but to no effect. Through the alertness and influence of these agents, trade was continued, property and lives were protected, and the Trans-Mississippi Department was to some extent provided with money and supplies.

In November, 1863, certain funds, \$16,000,000, *en route* by sea from Richmond in the hands of Clarence C. Thayer, an agent

⁷¹*Statutes at Large of C. S.*, pp. 122-125; Schwab, *The Confederate States of America*, 292-294.

⁷²General Orders No. 67, September 1, 1864, *Off. Recs.*, XLI, iii, 904.

of the government, were seized for accounts and claims against the department by a Mexican firm of Monterey, P. Milmo & Co., to whom they had been entrusted for shipment from Matamoras to Eagle Pass, Texas. This company also immediately bought up all debts claimed against the department by small companies and, supported by Governor Viduarri at Monterey, declared its intention of seizing all cotton shipped through border points until the debts were paid. The agent protested and demanded his funds, but without success. General Smith took the matter in hand and sent three commissioners to Mexico with instructions to demand that the funds be turned over to the revenue agent. He prohibited all exportation of cotton to Mexico, refused to allow any property belonging to Mexicans to cross the river, and announced that all transfers of such property would be illegal from the date of his order. His letter to Governor Viduarri was diplomatic but firm. He expressed his surprise at the occurrence and his hope for a speedy settlement; he declared his agents clothed with ample powers to adjust this difference, that debts justly due Mexicans would be paid, and that "a refusal to release the funds after their attention had been called to their illegal detention would seem to raise for discussion and action the unpleasant questions whether or not the Mexican government had or intended to assume a hostile attitude to the government of the Confederate States." The matter was amicably adjusted.⁷³

Some of the general's relations with the French are worth noting. He sent by special agent, in September, 1863, to Mr. Slidell, the Confederate commissioner at Paris a summary of the conditions in his department and urged him to use every effort to secure the intervention of Napoleon III.⁷⁴ He pointed out the several advantages such a policy would bring to the French protectorate in Mexico. With this same thing in mind in 1864, he gave one of his officers, Major Polignac, a Frenchman, leave of absence for six months, without referring the matter to the president, in order that Polignac might go to France and if possible arouse in-

⁷³For the whole affair see *Off. Recs.*, LIII, 931-951; *Galveston Tri-Weekly News*, March 11, 1864.

⁷⁴Smith to Slidell, September 2, 1863, *Off. Recs.*, XXII, ii, 993-994.

terest in the cause of the Confederacy.⁷⁵ Again when the French seized Confederate arms off Matamoras, General Smith applied directly to Mr. Slidell to secure their release.

One other matter of civil character, the control of trade, was so important that it has been reserved for a separate discussion.

7 *Control of Trade*

There is no subject in the wide range of General Smith's activities in this department in which the extent of his power is better shown than in his control over the trade in cotton. It involved both the civil and military powers.

"My power in the Trans-Mississippi Department," he is quoted as saying, "was almost absolute. I bought cotton through my cotton bureau at three or four cents a pound and sold it at fifty cents in gold. It passed in constant streams by several crossings on the Rio Grande, as well as through Galveston to the agents abroad."⁷⁶

Conditions made necessary the control of the cotton trade. The department had never been well supplied with money or munitions of war, and when the burden devolved solely upon the states, they were unable to sustain it. Munitions of war had to be imported, and the only means with which to pay for them was the one great commodity, cotton.

Before the department was severed from the Cis-Mississippi States, efforts were made by the military officers in the department to control the cotton by restricting its exportation. Opposition was raised, and the orders were finally revoked by the direction of the war department as illegal.⁷⁷ This action had serious consequences for the government, especially in Texas. The keen demand in Mexico, where foreign buyers congregated and offered gold, and the continued depreciation of Confederate currency, had raised prices enormously. Speculators multiplied. Government

⁷⁵Polignac, C. J., "Polignac's Mission," in *Southern Historical Society Papers*, Vol. 35, pp. 326-334.

⁷⁶Noll, Arthur Howard, *Life of General E. Kirby Smith*, 225. I have not been able to verify this statement.

⁷⁷Joint Resolution, Ninth Legis. (Texas), March 7, 1863; Gammel, *Reprints of Texas Laws*, V, p. 625; Seddon to Holmes, January 28, 1863, *Off. Recs.*, LIII, 845.

agents could not buy enough cotton, partly because speculators raised the price of cotton beyond what they were authorized to pay and partly because they lacked money. These agents asked the government for power to impress cotton, but neither the president nor the secretary of war would consent.⁷⁸

Such was the condition when General Smith became head of the department. Quartermasters, agents and even Major General Magruder appealed to him to authorize impressment, urging the immediate need of the staple. In June, 1863, the *Sea Queen* and other vessels come to the mouth of the Rio Grande with army supplies for which they were to receive cotton; but as the government officials at Brownsville had not been able to procure it, General Smith, June 27, ordered Magruder to impress the cotton and transportation necessary for meeting the immediate wants of the department and for sustaining the credit of the government.⁷⁹ Impressment officers were sent throughout south and central Texas, but were required to exempt from impressment cotton exported by the state, by associations for the benefit of soldiers' families, and by Major Hart, quartermaster and special agent of the war department, and all his subordinates. Planters were allowed to export free of impressment thirty bales for each one hundred slaves owned.⁸⁰ Later, by Magruder's orders, the planter was allowed forty bales to one hundred slaves, but he was forced to pay a twenty per cent impressment tax if he shipped by way of the Rio Grande. If he shipped by sea, no tax was charged, provided he had a contract to bring in arms equal to the amount of cotton exported, or if he brought in arms equal to the value of one-fourth of his return cargo.⁸¹

The second step in securing control of this staple came August 3, 1863, when the commander established a cotton bureau under Lieutenant-Colonel W. A. Broadwell as chief, with headquarters at Shreveport, Louisiana.⁸² All officers and agents engaged in the

⁷⁸Hart to Seddon, with endorsements, June 20, 1863, *Off. Recs.*, LIII, 873.

⁷⁹Smith to Magruder, *Off. Recs.*, LIII, 885.

⁸⁰*The Galveston Tri-Weekly News*, September 9, 1863.

⁸¹General Orders No. 304 [Magruder], November 8, 1863, *Off. Recs.*, XXXIV, ii, 882. See also Oldham to Davis, January 4, 1864, *ibid.*, 820-821.

⁸²General Orders No. 35, August 3, 1863, *Off. Recs.*, XXII, ii, 953.

purchase, collection or other disposition of government cotton were ordered to report to and receive instructions from him. As the area of the department was too great to be administered efficiently from a single office, subordinate offices were established at Houston, Texas, and Monticello, Arkansas.⁸³ The purpose of the creation of the bureau was to insure uniformity of policy and method in making available the one marketable resource of the country and to guarantee centralization of control at the commander's headquarters. But this plan, especially the order forcing all agents under the control of the bureau, was opposed by those who had been sent out by the war department. However, the executive officers at Richmond sustained the commander.⁸⁴

Of the sub-bureaus, that known as the "Texas cotton office" at Houston, was the most important because of the area of its operations, the great amount of cotton produced in Texas, and its close proximity to Mexico, which was the chief outlet for the staple. Lieutenant-Colonel W. J. Hutchins, a capable and well-known business man of Houston, was placed in charge of this office and was instructed to make plans for it satisfactory to the Texans, just, uniform, and effective. This cotton office became, by order of the commander, the purchasing bureau of all supplies, through the medium of cotton, for the district of Texas, and agents already purchasing cotton in the district were made subject to it.⁸⁵

From the first the cotton office was beset with difficulties. Its funds were meager, and it was forced into unequal competition with the state agent and the speculator, both of whom could pay higher prices with better money. Frequently, indeed, cotton that had been engaged by Confederate agents was delivered to the speculator or the state for a higher price. Smith protested to Governor Murrah against the state plan for purchasing cotton;

⁸³Special Orders No. 198, November 22, 1863, *Off. Recs.*, XXVI, ii, 437. 438. When the Arkansas office was established cannot be determined, but it was probably not until the summer of 1864.

⁸⁴*Texas Republican*, December 9, 1864; *Off. Recs.*, Series IV, Vol. II, 1016.

⁸⁵*The Galveston Tri-Weekly News*, March 28, 1864; *The Weekly State Gazette*, October 26, 1864.

while on the other hand, the governor questioned the legality of the cotton bureau.⁸⁶

The efforts of government agents were paralyzed. It became evident to military officers that the needed supplies could not be procured under those conditions. The commander sent Guy M. Bryan to Richmond to urge congressional authorization of the cotton bureau, and when that failed he appealed to the people in an address, June 1, 1864, in which he emphasized the needs of the army and the impossibility of feeding and clothing it without half of the cotton in the department, and urged them to sell their cotton to the government at reasonable prices, lest he be forced to impress it.⁸⁷ On the same day he ordered his agents to purchase, or if they could not purchase, to impress one-half of the cotton in the department. Soon after this the state voluntarily retired from the market and Smith was in a position to seize the cotton which was passing in streams to the Gulf coast and across the Rio Grande.

The trade across the Mexican border was harder to control than that by the sea. From the first year of the war rumors of official connivance with speculators had drifted up from the Rio Grande. Although special agents of the government had been sent to the several crossings on the river in 1863, they were too far away from headquarters to be effectively supervised; while the temptation to profit was very near at hand. At any rate, rumors continued that government agents purporting to buy for the government were actually selling for themselves and introducing practically what they pleased. General Smith endeavored to control the situation and hoped to stop speculation by placing the whole business under the uniform direction of the cotton bureau.

The wholesale exportation in 1862 and 1863 of products needed for home consumption caused Congress, in February, 1864, to pass an act "to impose regulations upon foreign commerce," which prohibited the exportation of cotton, tobacco, military and naval stores, sugar, molasses, and rice, except under uniform regulations

⁸⁶Smith to Murrah, April 5, 1864, *Off. Recs.*, XXXIV, iii, 734. For other correspondence on this subject see *ibid.*, 730; XXXIV, iv, 645.

⁸⁷"To the Citizens of the Trans-Mississippi Department," June 1, 1864, *Off. Recs.*, XXXIV, iv, 638-639. See also Smith to Davis, May 12, 1864, *Off. Recs.*, XXXIV, iii, 821-822.

to be made by the president.⁸⁸ This act was received by General Smith, in all probability, in June. He had just ordered the impressment of one-half the cotton in the Trans-Mississippi Department; and, since it was necessary to send this cotton out and since the president's regulations were not received at department headquarters along with the copy of the new law, General Smith published regulations of his own for the overland trade with Mexico.⁸⁹ They provided that all cotton, tobacco, military and naval stores, sugar, molasses, and rice intended for overland transportation to Mexico must be entered and registered with the collector of customs at an established port of entry and receive a permit from him after payment of export duties. These articles must either be proven the property of the Confederate government, or of a state, or they must have been received in exchange for army supplies furnished the government, or be intended for export to pay for machinery or agricultural or mechanical instruments.

The people were hardly over the shock of the order for the impressment of half the cotton, when these regulations were published. Governor Murrah objected to the order for impressment, because it interfered with his own scheme for the purchase of cotton by the state. However, in a conference at Hempstead, Texas, the commander convinced him of the necessity of this policy and Murrah suspended his own plans.⁹⁰

The regulations drawn up by the president for the overland trade with Mexico reached department headquarters the last of July while General Smith was in the field. He did not see them till about the first of August, after his own regulations had been in operation about two months. He then decided by virtue of his "large discretionary powers" to continue his own system, since it seemed to be working well, while the scheme devised by the president⁹¹ was more complicated and less practicable and would re-

⁸⁸*Statutes at Large of C. S.*, 1st Cong., p. 181.

⁸⁹General Orders No. 35, June 4, 1864, *Off. Recs.*, XXXIV, iv, 643-644.

⁹⁰*Houston Daily Telegraph*, July 20, 1864.

⁹¹The regulations for overland trade, signed by Memminger and Seddon, and approved March 11, 1864, are found in *Off. Recs.*, Series IV, Vol. III, 206-207. See, also, *The Galveston Tri-Weekly News*, January 13, 1865. They allowed anyone to export the prohibited articles who could get a permit from General Smith or some one delegated by him to issue such permits; but both carrier and owners of the articles must have permits,

quire more men to perform the duties entailed. It would also be much less profitable to the government because it opened the trade to all citizens again, while Smith's regulations secured a virtual monopoly. It would have paved the way for further trouble with speculators. Then, too, when Governor Murrah gave up his state plan, General Smith had promised that the system he had inaugurated under his own regulations should be kept.⁹² Under the general's system, the trade was carried on for months, the cotton bureau by this means keeping the army in the field and relieving the immediate wants of the people.

Early in 1865, the full control of cotton and therefore the control of trade passed to the agent of the treasury. The cotton bureau had been opposed by the private exporter, the speculator, the governor and legislature of Texas; and their complaints caused the authorities at Richmond to decide upon a change which would relieve the bureau of incessant attack for its questionable legality. It was December, 1864, however, before the instructions of the secretary of war were received west of the river, and the commander and treasury agent set February 1, 1865, as the date for the latter to assume control.⁹³

Despite the watchfulness of the Federal blockading squadron off the coast of Texas, blockade runners carried on a thriving trade with such ports as Nassau, Havana, and Matamoros. These vessels brought in general necessities, such as munitions of war, arms, powder, lead, caps, saltpetre, hardware, bagging, rope, drugs, dry goods, shoes, and salt, and received pay for the cargoes in cotton.⁹⁴ Before the order for the impressment of cotton in June, 1863, army stores often had to be stored in Havana till cotton could be procured. Some of the blockade runners were owned by pri-

both must give, under oath, lists of goods to be exported, names of owners, drivers, routes and points of destination. The owner or owners of goods exported must give bond, in Confederate money, to import in sixty days merchandise to the value of one-half his exports.

⁹²Smith to Murrah, August 25, 1864, *Off. Recs.*, XLI, ii, 1083.

⁹³Trenholm to Seddon, July 21, 1864, and Seddon to Smith, August 3, 1864, *Off. Recs.*, LIII, 1016; General Orders No. 101, Shreveport, December 30, 1864. *Ibid.*, Vol. XLI, iv, 1133. *The Texas Republican* of May 26, 1865, contains an order from General Smith, May 19, 1865, relieving Colonel Broadwell from duty as chief of the Cotton Bureau.

⁹⁴*The Official Records of the Union and Confederate Navies*, Vol. XXI, contain much evidence concerning this trade.

vate parties and some by the government. In 1863, the officers of the Trans-Mississippi Department increased the number of government boats by dismantling a number of warships that were captured on the Texas coast, placing the guns in the forts, and fitting out the vessels as blockade runners. Then the *Harriet Lane*, the *Clifton*, the *Sachem*, and a number of others were loaded with cotton and sent to Havana, where both vessels and cargoes were to be sold; but as there was no ready sale for the vessels, they were used as blockade runners.⁹⁵ A number of other ships, as the *Frederick the Great*, the *Sea Queen*, the *Good Year*, the *Love Bird*, were all active blockade runners through the years 1863 and 1864. Some of these had been engaged in private business, but as the government, through General Smith's orders, appropriated more and more of the cotton, private shipping decreased.

It is impossible to make even an approximately correct estimate of this trade by sea. On one hand, it cannot be separated from the trade through Mexico and, on the other, accurate lists of all imports are not available. The following evidence will give some idea of its character: One vessel was captured with 12,000 stands of arms on board; another was run in with 10,000 guns, 5,000,000 caps, and 2,000,000 rounds of small ammunition on board. In October, 1863, the following goods were reported en route to Marshall, Texas, for the Ordnance Bureau: 30,000 pounds lead; 50,000 pounds English powder; trace chains, wood screws, canvas, axes, flannels, paper, files, *etc.*, in fair quantities.⁹⁶ A year later Captain Lynch of Brownsville, Texas, reported that from October 4, to December 9, he had forwarded from that port alone 600,000 pounds of army stores.⁹⁷ All these goods and many others were paid for with cotton. When by the president's regulations under the act of February 6, 1864, a special port for the exportation of cotton had to be designated, Houston, by the commander's order, became that port. Soon afterwards the control of this trade passed to the treasury agency.

⁹⁵Magruder to Seddon, September 29, 1864, *Off. Recs.*, XLI, iii, 963-4.

⁹⁶Rhett to Johnson, October 22, 1863, *Off. Recs.*, XXII, ii, 1141-1142.

⁹⁷*Texas Republican*, Marshall, December 9, 1864.

8. *Conflicts with the State Authorities*

The exercise by a military officer of these extraordinary powers and functions in communities thoroughly committed to the political philosophy of the old South inevitably brought on misunderstandings and conflicts with the state authorities. In many instances the governors opposed the operation of certain laws of Congress more than the assumption of unusual powers by General Smith, but since he was vested with the military administration of the department and therefore charged with the execution of these laws, he was drawn into the conflicts. As practically all of Missouri and large portions of Arkansas and Louisiana were under the control of the enemy, while Texas was not only intact but comprised nearly all that remained of the department, it was in this state that most of the trouble arose.

Much of this misunderstanding was over the control of state volunteer organizations, reserve corps, and the operation of the conscript law. In both Arkansas and Louisiana the governor demanded that the volunteer state troops be left in the state for its protection, or if called to service under the Confederate commander that the governor be permitted to appoint officers to command them.⁹⁸ Later these organizations were turned over entirely to the Confederate service.

In Texas, there were several points of conflict between state and Confederate laws. The Confederacy demanded the service of all white men of conscript age and required its military officers to draw these into the army and organize them into companies, regiments, and battalions. The Texas legislature, in 1863, provided for the reorganization of state troops into brigades and authorized the governor at the end of six months to muster out all previously enrolled. Acting on this authority, Governor Murrah gave furloughs to all men over forty-five in state companies and by proclamation urged all still liable to military duty not to join any organization, except one composed of state troops. This greatly demoralized portions of the army, for many of those who were of

⁹⁸Flanagin to Holmes, October 18, 1863, *Off. Recs.*, LIII, 901-902; Davis to Allen, April 9, 1864, *ibid.*, 981-983; Allen to Seddon, June 25, 1864, *ibid.*, 1003; "Note of Agreement" [August 10, 1863?], *ibid.*, XXII, ii, 962.

conscript age serving in state organizations, believing that this proclamation applied to them, went home. In a conference between the governor, General Smith, and Major General Magruder, Murrah claimed that the state had a right to the conscripts, giving as his reason that when "the Confederate states and the state had concurrent jurisdiction, the party which occupied the ground first was entitled to the exclusive jurisdiction." Both military officers opposed the principle on which this claim was based and denied the right of the state to claim the conscripts. This point was finally compromised to allow conscripts to go directly into the Confederate service or first into the state service and at the end of six months into the Confederate army. Under the Texas law the state troops were offered to the military officials organized into brigades, while the acts of the Confederate Congress prohibited the Confederate officials from recognizing such organizations. The controversy continued until Banks's campaign up the Red River brought danger to the door; then Murrah yielded and agreed to urge the state troops to organize under the laws of Congress.⁹⁹ Nothing could be more productive of utter demoralization than the stubborn attitude of Governor Murrah or better illustrate the difficulties which General Smith had to face.

It was probably in keeping with the governor's theory that the state had prior jurisdiction over its conscripts that the legislature provided for the enrollment into a frontier regiment of all the bona-fide citizens of military age within the frontier counties.¹⁰⁰ This regiment when organized was to be turned over, under certain conditions, to the Confederate commander. It was reported to contain 4,000 able-bodied men, of whom two-thirds were liable to conscription.¹⁰¹ The regiment remained under state control, and General Smith appealed to Governor Murrah to obtain either a repeal of this law or the enactment of another directly transferring the frontier regiment to the Confederate service. The result of this was a resolution by the legislature authorizing the Governor to discharge any member of the regiment who was not on

⁹⁹For this entire controversy see *Off. Recs.*, XXXIV, ii, 886, 905, 973-975, 1087-1095, 1103; *ibid.*, iii, 726, 735, 739, 747-750, 769.

¹⁰⁰Approved December 15, 1863. Gammel, *Laws of Texas*, V, 677-679; amendment, May 31, 1864, *ibid.*, 771.

¹⁰¹Smith to Davis, February 10, 1865, *Off. Recs.*, XLVIII, i, 1373-1376.

July 1, 1863, a bona-fide citizen of the frontier.¹⁰² The governor, however, suggested to the commander, as a matter of policy, that this organization should not be interfered with by the Confederate military authorities until Congress should definitely settle the matter in the coming session.¹⁰³ In February, General Smith reported the entire matter to the president, enclosing copies of the law, the resolution, and all correspondence and general orders on the subject. It seems that the regiment was finally turned over to the general government.¹⁰⁴

Probably the sharpest controversy between the Texas officials and the Confederate military commander was over the control of cotton. We have already seen that General Smith as a means of procuring funds and supplies had begun the purchase or impressment and exportation of cotton and had placed the business under the charge of a bureau which he had established without direct authorization from Richmond. The state also, through its military board, began purchasing cotton for exportation and, under Governor Murrah's "state plan," allowed any owner a license or permit to transport his cotton to the Rio Grande on condition that he there sell half to the state at the prevailing market price. Payment was made in seven per cent state bonds redeemable in money or state land. Of course, the state offered protection to the vendor against interference by Confederate officials or agents.¹⁰⁵ State agents and speculators, eager to secure this new permit, flocked into the field and purchased the best of the cotton, in many cases obtaining by higher prices cotton already engaged by Confederate agents. It was reported that Murrah bought 12,000 bales. General Smith appealed to the governor urging the great need of cotton to supply his army, explaining the purpose of the cotton office and showing that its efforts were useless so long as the "state plan" was in operation. Although the governor replied that he designed no interference with the plans of the government for the

¹⁰²Approved May 24, 1864, Gammel, *op. cit.*, V, 773.

¹⁰³*Off. Recs.*, XLVIII, i, 1374-1379.

¹⁰⁴*The Galveston Tri-Weekly News*, February 22, 1865.

¹⁰⁵See Murrah's message to 10th Legislature, May 11, 1864, *Executive Record Book* No. 280, pp. 86-90, in Texas Archives. Also, Broadwell to Smith, April 4, 1864, *Off. Recs.*, XXXIV, iii, 730-732; Smith to Murrah, April 5, 1864, *idem.*, 734.

acquisition of cotton, he refused to give up his scheme. The work of government agents was further hampered by a state law forbidding, under heavy penalties, all impressments of cotton or other trade restrictions not authorized by the laws of Congress.¹⁰⁶ As previously shown, efforts had been made to get Congress to legalize this bureau but without result. General Smith did not in fact claim any statute authority for the bureau, but he maintained that the military necessity was sufficient to justify it. He sent Major Guy M. Bryan to Austin to urge the governor to co-operate with him, but without success. Correspondence of this subject was continued till July, 1864, when the governor finally yielded, suspended purchases under the "state plan," and relinquished his contracts for cotton to the Confederate authorities.¹⁰⁷

This opposition to the operation of certain laws of Congress and to policies of the administration was not confined to state officials. During 1863 and the spring of 1864 the attitude of the press and, presumably, of the people toward Smith was one of friendly co-operation; but after he began enforcing the conscript law, impressing cotton and transportation, and using his own regulations for trade, discontent was manifested and many people openly supported the contentions of the Governor. It was not popularly known, in fact, how much power had been delegated to the general; and apprehension was expressed that unless the state asserted its rights it would be overthrown. The Texas papers, which realized that General Smith's power alone prevented anarchy, defended him by maintaining that the cotton office was legal, that impressments were necessary, that the state governments were in greater danger from the enemy than from the Confederate military authorities, that the affairs of the department were administered well, and that he should be sustained. *The Houston Telegraph*, *The Arkansas Telegraph*, *The Galveston News*, *The Texas Republican* (Marshall), *The Patriot* (La Grange), all supported the commander's policy, usually in the strongest terms; while *The State Gazette* (Austin), the Natchitoches papers, and perhaps others, opposed it just as vehemently. Citizens, as well

¹⁰⁶General Laws, Called Session, Tenth Legis., pp. 12-13; Trenholm to Seddon, July 21, 1864, *Off. Recs.*, LIII, 1016.

¹⁰⁷Murrah to Nichols, July 16, 1864, printed copy in Texas Archives. Also, Smith to Murrah, August 25, 1864, *Off. Recs.*, XLI, ii, 1082-1084.

as newspapers and state officials, were divided in their opinions as to the right of the commander to exercise his great powers.¹⁰⁸ Throughout the latter half of 1864, especially, there was evidence of a growing discontent, an increasing opposition to the entire system of the department's government. While in most cases the wiser citizens and editors were silent or defended the general and his administration whenever they could, yet there was clearly a strong feeling that this peculiar government could not stand the test of law.

The Marshall Conference in the face of danger had readily agreed for the general to assume unusual powers; but when that immediate danger was removed by the defeat of Banks and Steele, the continued exercise of these powers brought on misunderstandings and conflicts. The enforcement of the conscription law and the suspension of the writ of habeas corpus aroused the people. The feeling existed, too, that these assumptions of authority were unconstitutional; the demand for half of the cotton touched the sensitive popular nerve of personal property rights; and the decision of the general to continue his own regulations after he had the president's in his hand looked to some as if he intended to disregard the constitutional government altogether.. However great this opposition to the administration, there was no violence; General Smith continued his policies and in a short time the wave subsided. With some exceptions, the leaders, the open-minded, most of the courts, and a large number of the people sustained the commanding general.

It is clearly evident that the governmental arrangement adopted for this detached department was the result of conditions therein and of the interruption of communications with Richmond. All parties responsible for the defense of the department agreed that it must be administered separately from the Cis-Mississippi states and that the commander should become the administrator. He was therefore empowered to act on all questions of military administration and encouraged and supported in his assumption of a part of the civil functions of the chief executive of the government. In the former, such vexing problems as defending his vast territory, guarding the long line of frontier, securing and distrib-

¹⁰⁸*State Gazette*, August 24, and October 26, 1864.

uting the necessary supplies, manufacturing ordnance and other needed munitions, were all overcome, to a great extent at least, through his organization of the army and the operations of his war bureaus.

The civil powers exercised by General Smith were not expressly delegated by act of Congress, and they were assumed reluctantly and used with caution. Only those necessary to the strengthening of his military administration were used at all. Until the organization of the treasury agency in the department, he practically controlled the finances; he assumed responsibility for the expenditures, and he controlled the collection of the taxes of various kinds; with the consent of the state authorities, he took control of the cotton and, to obtain this commodity and through it the necessary supplies, he assumed control of the trade. To secure the greatest benefit from this trade, he sent agents abroad to make his purchases, and he despatched representatives to Mexico to secure the co-operation of the French and Mexican authorities in order to keep open the only door through which his products and supplies could pass. In administering this department under these peculiar conditions, he was beset with many difficulties and was often forced for the sake of harmony with the state authorities to agree to compromises which a commander, exercising only the usual powers of such an officer, could not have considered. He became, in fact, the agent of the general government exercising the functions of the president and those of the members of the cabinet so far as such functions were necessary for the administration and defense of the department.

While not dangerous in the hands of a man of his integrity and high principles, the care with which these powers were screened, even under the tensest stress of circumstances, is eloquent of the strong attachment of the South to constitutional forms of government. It was in a large measure due to the ability, patriotism, and untiring zeal of the commanding general in the use of these extraordinary powers that the Trans-Mississippi Department did not break down of its own weight long before the surrender of the Confederate armies east of the river.

THE UNITED STATES GUNBOAT HARRIET LANE

PHILIP C. TUCKER, 3D

In the year 1859 there was launched from Bell's Shipyard in New York harbor, for the use of the United States revenue service, a vessel which was at that time considered the very best of her type. As she entered the water with due ceremony she was christened the *Harriet Lane* in honor of a very popular girl in Washington society of that day, the niece of Senator Andrew Johnson of Tennessee and later, when her uncle became President of the United States, the lady of the White House.

The *Harriet Lane* was not a large vessel, being only two hundred and seventy feet in length, of twenty-two feet beam, and twelve feet from main deck to floor timbers. She was rigged with two masts as a topsail schooner, and equipped with a double-right-angled marine engine of low pressure and with side paddle wheels. She was copper sheathed and copper fastened throughout, and all materials used were of the best. Her berth deck was seven feet below the main. Aft the shaft was the captain's cabin and stateroom, beneath which was a magazine. Next were the officers' ward room, staterooms and lockers, under which was another magazine. Midships were the machinery and coal bunkers. Forward were staterooms, the galleys and quarters for the crew, below which was a third magazine. Her armament consisted of light guns. She was designed for a revenue cutter and as such she was used for a little time about New York harbor.

Upon the organization of the expedition to Paraguay under Commodore Shubrick, she was temporarily detached from the revenue service to serve as one of the vessels of his fleet. In 1861 upon the breaking out of the Civil War she was transferred from the cutter service to that of the United States Navy, and her first service was as one of the fleet for the relief of Fort Sumter, on which expedition, from her deck was fired the first gun of a naval vessel in that struggle. It was a thirty-two pounder in charge of Lieutenant W. D. Thompson and its target was the Confederate

¹Andrew Thompson, Deposition before Confederate Prize Commissioners, August 25, 1863. MS. in P. C. Tucker 3d Collection, Library of Texas State Historical Association.

steamer *Nashville*, off the Charleston bar.² At 8:30 a. m., June 5, 1861, under command of Captain Faunce, she engaged the Confederate battery at Big Point, on Nansemond River, near Newport News, Virginia, for one hour. Her fire was ineffective because of the light calibre of her guns and their short range; she was struck twice by shots from the battery, and five of her crew were wounded.³ She also participated in the attack upon Fort Hatteras, and was used as a convoy for merchant vessels and in cruising.⁴

Upon the organization of the West Gulf Squadron under Commodore Farragut for the reduction of Confederate ports in Louisiana and Texas, because of her light draft, she was chosen for the work and her batteries were strengthened as follows: one four-inch rifled Parrot gun as pivot on the forecastle deck; one nine-inch Dahlgren gun on pivot forward of the foremast; two eight-inch Dahlgren Columbiads and two twenty-four-pound brass howitzers on ship carriages, aft; and cutlasses and small arms for ninety-five men. She was commanded by Commander John D. Wainright and Lieutenant Commander Edward Lea, and was used as the flag ship by Commodore Farragut until January 20th, when he transferred his flag to the *Hartford*.

Finally she was ordered to join Captain David D. Porter's fleet which consisted of the *Owasco*, *Westfield*, *Clifton*, *Miami*, *Jackson*, *R. B. Forbes* and *Octorara*, the last his flagship, at Ship Island, near the mouth of the Mississippi river. From this rendezvous they sailed on the 4th of March, 1862, for the Southwest Pass of that river, and thence to attack the forts below the city of New Orleans. On the 8th of April they advanced up the west side of the river as far as Fort Jackson, opened fire upon and enfiladed this fortification, passed it on the morning of April 24 and on the next day took New Orleans.⁵ After the surrender of the city the *Harriet Lane* was sent up the river to aid in the attack on the Vicksburg batteries, June 29, 1862.

In September she was dispatched to Galveston, Texas, along

²Captain H. D. Smith, "The U. S. Revenue Cutter Service," *Century Magazine*, Vol. 33, 575 (February, 1898).

³Frank Leslie's *Pictorial History of the Civil War*, 1861, 70.

⁴Captain H. D. Smith, *loc. cit.*

⁵D. S. Osborn, "Memoirs" in *Pearson's Magazine*, February, 1906.

with the *Owasco* and *Clifton*, to reinforce Commodore Eagle in the blockade of that port. A demand for the surrender of Galveston previous to this date had been ignored by the Confederate forces there because the commodore's vessel *The Old Santee* was of too deep draft to enter the harbor or to approach within effective range of the shore.

On October 1, 1862, Commodore Eagle was relieved of the command of the blockading squadron by Commodore William H. Renshaw, with the *Westfield* for flagship. Renshaw at once demanded the surrender of the port, but the demand was rejected. On the morning of October 4, the fleet crossed the bar, proceeding up the channel in the following order: the *Westfield*, flagship, on the right, the *Clifton* with *Bomb Schooner No. 19* in tow on the left, the *Harriet Lane* and *Owasco* in the center. As they came on, the fort on Pelican Island on the western side of the channel opened at long range with a ten-inch Columbiad. This was replied to by the entire fleet, with eleven-inch shells and rifle shot. As this Columbiad was the only gun that the Confederates had not removed from the fortifications, all the other batteries being armed with "Quaker guns," i. e. wooden logs, the works were immediately abandoned. The fleet then proceeded up the harbor to the city front and came to anchor.

On October 9, the *Clifton's* guard, marines, and one hundred sailors landed for the purpose of raising the United States flag on the customs house. The wharves and town were guarded by the firemen in full uniform by order of Mayor George W. Grover, and they acted as escort for the Federals to the custom house when the mayor delivered the key of the city to Captain Wainright of "*The Harriet Lane*." When the flag was raised and saluted, the Federals returned on board the vessel.⁶ A force of two hundred and sixty men—Companies D, G, and I of the Forty-second Massachusetts Volunteers, under command of Colonel Isaac S. Burrell, were landed on December 25 and barricaded on Kuhn's wharf at the foot of Twentieth Street. It was intended to land them on Pelican Spit, where were the military barracks, but Commodore Renshaw, and Captains Law and Wainright considered Kuhn's

⁶Gussley, "Yankee Notebook," published in *Galveston News*, by W. P. Doran of Hempstead, Texas, under the pseudonym "Sioux."

wharf and warehouse better, as they were directly under the guns of the fleet and in the city.⁷ Pickets were posted at the corners of the main streets and patrols were sent out through the city, while a lookout was kept from the cupalo of the Hendley building, which overlooked the city and suburbs. At night, the pickets were withdrawn to the gangway leading to the wharf and the patrols were recalled. Confederate cavalry entered the town every night, coming by way of the Gulf beach where the sand dunes concealed them. They rendezvoused at Schmidt's garden, a picnic park, at Twenty-first Street and Avenues N-O, and left for Fort Eagle Grove and Virginia Point before daylight.⁸

This fleet remained on guard and blockade duty until January 1, 1863, several times bombarding the city because of alarms of Confederate attacks. The alarms were mostly baseless and were due to the overstrained nerves of pickets, who had been imposed upon by so-called Union sympathizers. One instance is described thus by W. P. Doran. There was a well known character in Galveston, Tom Barnet—better known as "One-armed Tom"—who had lost his arm in the naval service of the Republic of Texas, and who was very bitter against the invaders. One dark night in December, 1862, Doran accompanied Tom to see the sights. Reaching Parry's Foundry near the wharf, two Federal sentinels hailed them. Tom drew and leveled his six-shooter. The sentinels fled toward the barricade, the drums beat the alarm, a signal rocket was fired, and the gunboat *Clifton*, anchored off the wharf, fired several broadsides into the city.⁹

Though nominally in the hands of the United States forces, the city was practically free to the Confederate forces which were entrenched at Fort Eagle Grove, three miles west of the city and at Virginia Point, northwest of the city seven or eight miles at the mainland end of the railroad bridge. Food supplies were doled out by a committee of subsistence at Houston, and sent over, un-

⁷Long to Houston, January 10, 1863, *Official Records, War of the Rebellion*, Ser. I, Vol. XV, 208. From all the information I can gather, a force was on this wharf from the first days of occupation in October.

⁸Long to Houston, *loc. cit.*

⁹*Galveston News*, July 5, 1891. I have heard the same story from P. J. Willis, of Galveston, and others.

der a flag of truce from Virginia Point, as the citizens declared,¹⁰ very sparingly.

On the night of December 31, 1862, the *Harriet Lane* was anchored near the western end of the ship channel off Thirty-first Street, with the fires of her furnaces banked. The *Owasco*, *Sachem*, and *Clifton* were anchored at intervals along the three miles of city front, with light heads of steam on in their boilers, sufficient to move them if necessary. The flagship *Westfield* was at the entrance to the harbor with full head of steam, ready for patrol duty, and on watch for any blockade runner that might attempt to enter the harbor.

There had been nothing unusual happening in several days, no intelligence of unusual activities among the Confederate garrisons; so no more than usual vigilance was being observed when at two o'clock next morning the signal lights began to flash and the crews were turned out of their hammocks to the alarm, "The enemy is approaching." There was none of the fleet, except the *Westfield*, with sufficient steam on to maneuver. The lights of the furnace fires of several vessels coming down the bay from the northward had been seen, and there was no doubt of their hostile character.

The *Westfield* left her station and started up Bolivar Channel intending to pass east and north of Pelican Island and thus place herself in the rear of the approaching vessels as they passed down the channel to the west of the island to enter the ship channel, where the other vessels of the fleet lay at anchor. The steersman miscalculated the force of the tide or trend of the channel, and she suddenly went hard aground off the east end of the island, about two miles from her station. It was then discovered that the Confederate vessels were in retreat, and were disappearing to the northward. The Federals decided that it had only been a reconnaissance, and their crews were ordered below to their hammocks.

Five miles away on the island a long gray column that had crept across the railroad trestle from the main land and was slowly advancing to the city had halted in confusion. When things grew

¹⁰Personal letters of N. D. Labadie, P. C. Tucker, W. P. Doran, et al. See, however, report of Col. I. S. Burrell, December 29, 1862, *Off. Recs.*, Ser. I, Vol. XV, 204.

quiet again about the fleet, the advance was resumed. This was the Confederate force under General John B. Magruder which had been assembled at Houston and Virginia Point for the recapture of the city. So quietly was the advance made that the fort and the earthworks in and around the city were taken and manned by guns brought from Virginia Point, and batteries were posted along the waterfront to sweep the channel and barricades before the movement was discovered and reported by a Federal sentinel and verified by Captain Sherive of the Forty-second Massachusetts. This was between three and four o'clock in the morning of January 1.¹¹

At four o'clock General Magruder personally fired the first gun at Twentieth and Strand. This was the signal, and all batteries and Fort Point opened fire upon the fleet and the troops' barricade. Meanwhile a force of five hundred infantry under command of Colonel J. J. Cook, with scaling ladders attacked the wharf; but after wading into the bay breast deep they found their ladders too short and had to retreat. The fleet responded with a galling fire, the distance not being over three hundred yards. After an hour, as the Confederate gunboats had not arrived and the land forces, without shelter except for stone buildings, had suffered heavily, Magruder gave the order to withdraw.¹² Before the order could be executed the Confederate vessels were seen coming down the western channel. They were the steamboat *Bayou City*, Captain Henry S. Lubbock, armed with a brass thirty-two-pound rifle cannon, served by Captain A. R. Weir, Lieutenant J. V. Riley, and twelve artillerymen from Company B, Cook's Regiment of the Arizona Brigade, and a force of some sixty riflemen sharpshooters of the same regiment under Colonel Tom Green; the steamboat *Neptune*, Captain William H. Sangster, armed with two twenty-four pounders, a force of artillerymen and sharpshooters from the company and regiment above mentioned; and the hospital boats and tenders—the steamer *John F. Carr* under Captain John Y. Lawless, and the *Lucy Gwinn* commanded by Major McKee. Both the *Bayou City* and the *Neptune* were barricaded with cotton bales. The *Bayou City's* gun burst at the fourth discharge, killing Captain Wier and wounding others of the gun

¹¹Wm. P. Doran *et al.* In the report of W. S. Long to Houston the time is fixed an hour earlier. *Off. Recs.*, Ser. I, Vol. XV, 208-210.

¹²Magruder's Report to Cooper, *Off. Recs.*, Ser. I, Vol. XV, 211-220.

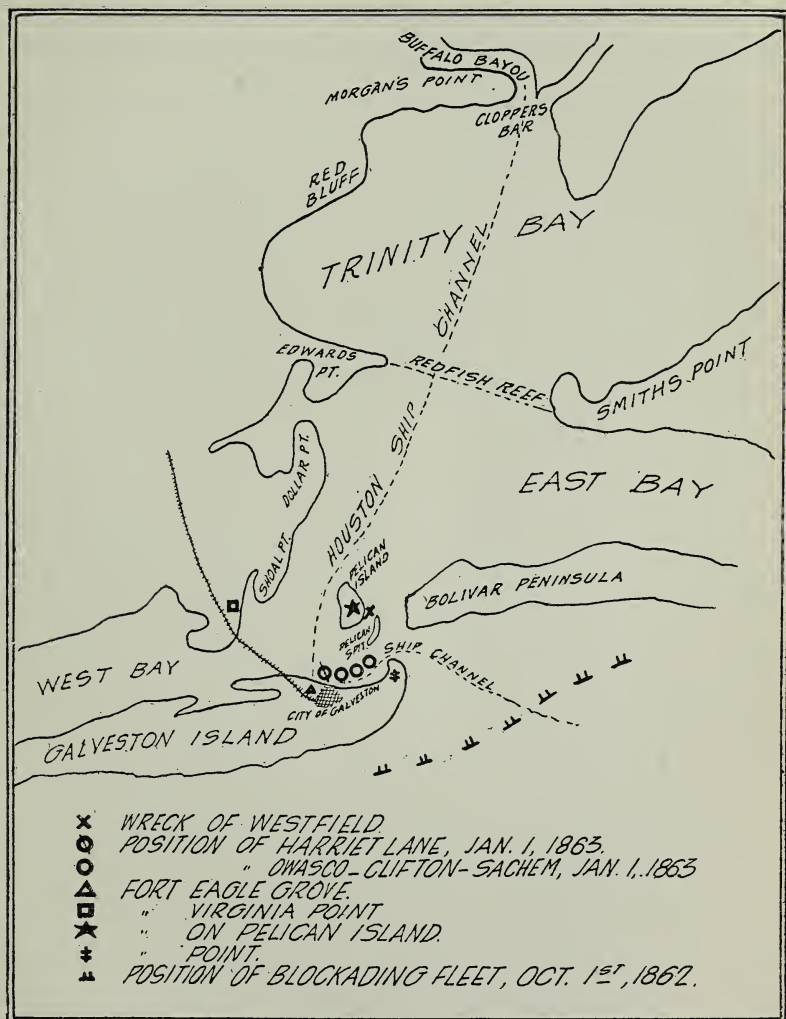
crew; her only means of offense now was by ramming, while her sharpshooters enfiladed the decks as she approached.

The nearest vessel was the *Harriet Lane*, at anchor without steam enough to get under way. Striking her a glancing blow on the port quarter, the *Bayou City* scraped by. The *Neptune* approaching from the other side struck her on the starboard side aft the wheel, forcing her to swing around with head up channel. The *Bayou City* having come about, rammed again, striking the port wheel house, and, forcing her bow under the deck guard, became fast. This careened the *Harriet Lane* at such an angle that her guns were useless for close quarters. In the meantime her decks had been cleared of crew and officers by the murderous fire of the sharpshooters of the *Bayou City* and *Neptune*.

Commodore Leon Smith and Colonel Tom Green boarded her at the head of their men and found Commander John D. Wainright dead on the bridge, Lieutenant-Commander Edward Lea mortally wounded, and Acting Second Master W. F. Monroe wounded. They immediately hauled down her flag and turned such guns as they could handle upon the gunboat *Owasco*, which was coming to her aid. This with the rifle fire of the sharpshooters drove the *Owasco* back. All three vessels were seriously injured. The Confederate steamer *Neptune* was so badly torn that she sank on the edge of the channel, scarce two hundred feet away in an attempt to beach her. The plummer block of the *Harriet Lane* penetrated the deck of the *Bayou City*, locking both vessels together so that neither could move without the other. The *Harriet Lane's* wheel was broken and engine shaft driven out of its bearings, so that her engines could not be started.¹³ When day dawned, the *Harriet Lane* was boarded from the shore by an aide from General Magruder's staff, Major P. C. Tucker 2d,¹⁴ to learn the result of the attack and the condition of the Confederate fleet—or rather he

¹³Magruder's Report, *loc. cit.*

¹⁴When the name Philip C. Tucker appears in this compilation, whether preceded by the title of Major or Prize Commissioner, it is that of my father, Philip C. Tucker, who held both these positions under the Confederate State government. Him I usually designate as Philip C. Tucker 2nd. His father was Philip C. Tucker 1st, of Vermont, and I am the third bearing his name, and so sign myself. I deem this explanation necessary to prevent confusion.



Galveston Bay and Surroundings

boarded the *Bayou City*, after sculling out in a skiff, and went on board the *Harriet Lane* to find Commodore Leon Smith.

Colonel Tom Green, and Captain Henry S. Lubbock, were at once sent down the harbor by Commodore Leon Smith, in one of the quarter boats of the *Harriet Lane* to demand the surrender of the rest of the fleet. Captain Lubbock found Captain Law on board the U. S. Gunboat *Clifton*, and agreed upon a two hours truce to allow him to confer with his commander, Commodore Renshaw, who was still on board the *Westfield* aground in Bolivar Channel. Colonel Green and Captain Lubbock then returned to the shore to report to the general commanding. In the meantime, the Confederate steam tender *John F. Carr*, after fruitless attempts to free the *Bayou City* from the *Harriet Lane*, under orders of Commodore Leon Smith had given over the effort and now conveyed him down the harbor to see what success Colonel Green and Captain Lubbock had attained towards the surrender of the United States vessels.¹⁵

The *Lucy Gwinn*, Major McKee, was signaled by orders of General Magruder to tow the two vessels to the wharf and land them at the foot of Bath Avenue when they were taken in charge by Major Philip C. Tucker, under orders from General Magruder. While the wounded and prisoners were being removed to the shore, the gunboat *Owasco* on the way down the harbor with a flag of truce at her masthead, fired upon the *Harriet Lane* with shrapnel and shell. One eleven-inch shell just grazed the main deck as it crashed through both sides of the vessel, just above her magazines. The evident intention was to explode the magazine and thus destroy the ship.¹⁶

Meanwhile the flagship *Westfield*, aground down the harbor, had been abandoned and a train laid to her magazine. The explosion not occurring as soon as expected, Commodore Renshaw with his boat crew of seventeen men and three officers returned aboard, just in time to be overwhelmed by her destruction at 8:45 a. m. The other gunboats, *Clifton*, *Sachem*, and *Owasco* steamed out of the harbor with flags of truce still at their mastheads and headed for

¹⁵H. S. Lubbock's Deposition before Prize Commissioners, 1863. MS. in P. C. Tucker Collection.

¹⁶Statements of Jos. Aiken of Galveston, signal corps C. S. A., W. P. Doran, and P. C. Tucker 2d.

New Orleans. The Confederates had neither vessels nor guns with which to stop them.¹⁷ Colonel Green and Captain Lubbock had returned aboard the *Clifton* to get Captain Law's answer to their earlier demands and narrowly escaped being carried to sea.¹⁸

The loss of the Confederates was twenty-six killed and one hundred and seventeen wounded. The exact loss of the Federals is unknown, but as nearly as can be estimated from the several official reports, about seventeen officers and men were killed and forty or more were wounded, while between three and four hundred were taken prisoners.¹⁹ The following report to General Magruder accounts for the crew of the *Harriet Lane*:

In obedience to your special order, charging me to receive from Major Leon Smith the prisoners then on board the S. S. *Harriet Lane*, I executed said order on the first of January, 1863, and received from Major Smith one hundred and nine prisoners, of whom twelve men were officers, and ninety-five crew, one a slave found on board, and one who claimed to have been accidentally on board, a resident of Galveston. They were disposed of by sending to the hospital four of the crew sick, eleven wounded, and one a nurse, and acting second master Monroe, wounded, and by turning over to Colonel E. B. Nichols of your staff by your orders, eleven officers and eighty of the crew, also the slave Rafe and the man, Quigley, found on board. I report herewith in detail, a correct muster roll thereof, with the necessary explanations included.

Respectfully,

Philip C. Tucker, 2d.

Galveston, January 4th, 1863.

I have no other statement of those killed on the *Harriet Lane* except the mention, in my father's list²⁰ of the crew, of two who

¹⁷Magruder to Cooper, *Off. Recs.*, Ser. I, Vol. XV, 216.

¹⁸H. S. Lubbock, Deposition before Prize Commission, 1863. MS. in Tucker Collection.

¹⁹Reports of Davis, Long (Federals) and Magruder, *Off. Recs.*, Ser. I, Vol. XV, 207, 209, 216.

²⁰The list of officers and crew of the *Harriet Lane*, taken prisoners by Major Leon Smith and turned over to Major Philip C. Tucker by order of Major General John B. Magruder, January 1, 1863:

Officers

1. Acting Master, J. A. Hammon
2. Acting Master, Charles H. Hamilton
3. Asst. Surgeon, Thos. N. Penrose
4. Pay Master, R. J. Richardson

are marked as killed, Jas. Pollock, and John Hart, in addition to the two officers, Commander J. D. Wainright and Lieutenant-Commander Edward Lea. This accounts for the crew of fourteen

5. 2nd. Asst. Engineer, W. H. Plunkett
6. 2nd. Asst. Engineer, C. H. Stone
7. 3rd. Asst. Engineer, J. C. Cooper
8. 3rd. Asst. Engineer, A. T. E. Mullins
9. 3rd. Asst. Engineer, R. N. Ellis
10. Acting Master's Mate, C. M. Davis
11. Steward, J. C. Sasslin
12. Acting Master, W. F. Monroe, wounded and sent to the hospital

Wounded and Sent to the Hospital

Crew List

- | | |
|--------------------------|---|
| 1. William Abbot | 42. C. H. Williams |
| 2. William Leech | 43. William Smith |
| 3. John Brewer | 44. Joseph Cummings |
| 4. Charles Gibson | 45. Thos. McCauley |
| 5. T. B. Hammon | 46. Joseph Clemens |
| 6. Alexdr. Steele | 47. C. Wessenfield |
| 7. John Kears | 48. Michael Connors |
| 8. R. T. Clifford | 49. R. A. Shote |
| 9. W. O. Riley | 50. G. O. Simmonds |
| 10. F. P. Burke | 51. Wm. A. Cohn |
| 11. Wm. Ray | 52. Jno. Curran |
| 12. James Tolland | 53. Jno. Budd |
| 13. Henry Burns | 54. Alex. Stevens |
| 14. William Patterson | 55. Frank Munsen |
| 15. Jonathan Carlin | 56. James Oney |
| 16. Peter O. Donahue | 57. Edward Durremon |
| 17. John Delany | 58. Chas. Usher |
| 18. R. G. Lewis | 59. Michael Dargan |
| 19. J. H. Hutton | 60. John Blaney |
| 20. J. C. Johnson | 61. Wm. Grooms |
| 21. John Lalone | 62. Nick Wheeler (colored) |
| 22. W. T. T. Galway | 63. Thos. Holton |
| 23. James Farson | 64. Jno. Foley |
| 24. William Metz | 65. Patk Donovan |
| 25. Richard Hahn | 66. C. Leonard |
| 26. Henry Gordon | 67. Thos. Gerry |
| 27. P. N. Currey (nurse) | 68. Jno. Allison |
| 28. James Bentley | 69. Jas. Tolland |
| 29. John Harrocks | 70. George Brown (colored) |
| 30. John Dowd | 71. Theo. Payne (colored) |
| 31. H. T. Paul | 72. Alonzo Walton |
| 32. Alex Corner | 73. J. H. Schafer |
| 33. J. A. Marshall | 74. Fred Jones (Col.) |
| 34. Robt. Buchanan | 75. Henry Burrell |
| 35. Joseph Bootleby | 76. H. Lucas (Col.) |
| 36. Jas. Stull | 77. Slave Rafe (Jackson) be-
longing to M. L. Parry
—negro man |
| 37. W. S. Jacoby | |
| 38. Edward O. Bren | 78. — Quigley, claims to be
an inhabitant of Gal-
veston, an alien friend |
| 39. H. I. Adams | |
| 40. James Curry | |
| 41. E. T. Vanrelson | |

officers and ninety-five men all told. The dead men were conveyed to the Ursuline Convent (Bath Avenue between N and O Streets), where the body of Commander Wainright was identified by Dr. Penrose, and warrant officers Hammon and Hamilton. It was then removed to Confederate headquarters, the E. B. Nichols residence (Broadway and Bath Avenue), and given burial with Masonic honors. At the same time the body of Lieutenant-Commander Edward Lea was buried with military honors.²¹ This was the day after the battle.

Among other papers in the chart room of the *Harriet Lane* the Confederates found a complete copy of the code of the United States signal service, which when copied and distributed among the signal corps of the Confederacy proved of inestimable value in subsequent engagements when orders were transmitted by signal flags.²² No log book was found among the contents of the chart room. Inquiry was made therefor before the Prize Commissioners, and Captain Henry S. Lubbock states in his deposition that

Crew, Wounded and Sick

1. Daniel Morris, sick in hospital
2. Henry Brass, wounded, gone to Houston
3. G. W. Davis, wounded
4. Albert Sailor, wounded
5. Christian Eisenhardt, sick
6. J. A. Purington, wounded
7. Peter Jackson, wounded
8. J. O. McDermott, wounded
9. David Hern, wounded
10. Dan'l Haggerty, wounded
11. Wm. Martin, wounded, gone to Houston
12. Jno. Cunun, wounded
13. J. C. Nickle, wounded
14. H. Woodfield, sick
15. Robt. W. Cummings, wounded, gone to Houston
16. Allen Dodd, sick
17. E. T. Kensil, wounded, in hospital
18. C. Mosenfeldt, sick
19. Jas. Frazier, wounded, in Houston

Hospital room..... 19

Gone to Houston 4

19, less 4 gone to Houston, 15

Killed, James Hart, Jas. Pollock, 2."—MS. copy of Tucker's report in Tucker collection.

²¹See page 378 below for account of Major C. W. Hays, in *Opera Glass Souvenir of Free Masonry*, Galveston, 1884.

²²Personal statement to me of Captain Joseph Aiken, Signal Corps, C. S. A.

it could not be found. It was probably thrown overboard by the officer who had it in charge, according to the prevailing usage and law on board naval vessels when captured. It is always heavily loaded so as to sink at once, and such action is considered the imperative duty of the officer who has it in charge, as valuable information could be obtained from it by the captors.

The injuries inflicted upon the vessel were of such character that it took a large force of carpenters, blacksmiths, and other mechanics over a week to make repairs. Captain Thos. C. Saunders was placed in command by the prize commissioner, Philip C. Tucker, with Thomas Kinney as mate, Cabbot, boatswain, Fleurry, gunner's mate, Thos. Seymour, first engineer, J. J. D. Patton, second engineer, McComby, third engineer, Andrew Thompson, water tender, Taft and Dick Murray, stewards. The balance of the crew were negro slaves.²³

This action took the vessel out of the hands of the military authorities and placed her in charge of the civil courts, and until judgment of confiscation was passed by these courts, she was in *statu quo*. After such judgment she would be the property of the Confederacy, and subject to the orders of the Secretary of the Navy. General Magruder seemed ignorant of this fact, as his subsequent action shows.

With respect to subsequent events at Galveston, General Magruder says:

Having buried the dead, taken care of the wounded, and received the captured property, my exertions were directed to getting the *Harriet Lane* to sea. The enemy's ships fled to New Orleans, to which place one of their steam transports was dispatched during the action. I knew that a large naval force might be expected to return in a few days. I therefore ordered the employment at high wages of all available mechanics to repair the *Harriet Lane*, her main shaft having been dislocated and her iron wheel greatly disabled, so that the engine could not work. The United States flags were ordered to remain flying on the custom house and the mastheads of the ships so as to attract into the harbor any of the enemy's vessels which might be bound for the port of Galveston. A line of iron buoys which he had established

²³Andrew Thompson, Deposition before Prize Commissioners in matter of S. S. *Harriet Lane*, 1863.

for the guidance of his ships in the harbor were displaced and so arranged as to insure their getting aground.

On the 3rd. of January, I being then on board of the *Harriet Lane*, a yawl-boat, containing several men, under command of a person named Thomas Smith, recently a citizen of Galveston, and who had deserted from our army, was reported alongside. He informed me that he was sent from the United States transport steamship *Cambria*, then off the bar for a pilot, and that they had no idea of the occupation of the city by us. I forthwith ordered a pilot boat under command of Captain Johnson to bring in this ship, but through a most extraordinary combination of circumstances the vessel, which contained E. J. Davis,²⁴ and many other apostate Texans, besides several hundred troops and 2500 saddles for the use of native sympathizers, succeeded in making her escape. The man Smith, who had, it is said, several times set fire to the city of Galveston before he deserted, had been known as Nicaragua Smith, and was dreaded by everyone. He returned to Galveston in order to act as Federal provost marshal. His arrival produced much excitement, during which some one without orders sent a sail-boat to Pelican Spit, now occupied by our troops, to direct the commanding officer there not to fire on our pilot boat, although she was under Yankee colors. The sail-boat thus sent was at once supposed to be destined for the Yankee transport. The pilot boat gave chase to her and the guns from the shore opened on her within hearing of the ship.

Night coming on, I thought it surer, as the alarm might be given, to capture her at sea before morning, but the *Harriet Lane* could not move, and our cotton gunboats could not live on the rough sea on the bar. Therefore one of the barks, the *Royal Yacht*, a schooner of ours, the pilot boat, and the *Leader*, a schooner loaded with cotton, which I had ordered to be sent to a foreign port with a proclamation of the raising of the blockade at Galveston, were directed to be prepared and armed with light artillery. This was done by 2 o'clock the same night, our little fleet being manned by volunteers, under the command of Captain Mason of Cook's regiment of artillery. Unfortunately, the wind lulled and none but the pilot boat could reach the enemy's ship. The enemy's ship proved to be a splendid iron steamer, built in the Clyde. I had ascertained . . . that she had only two guns, and they were packed on deck under a large quantity of hay, so I anticipated an easy conquest and one of great political importance, as this ship contained almost all the Texans out of the state who had proved recreant to their duty to the Confederacy and to Texas. The pilot-boat was allowed to get close to the

²⁴Davis was later the radical governor of Texas, 1870-1874.

board. . . . He went on board as ordered, and soon after the steamer sailed in all haste seaward.²⁵ . . . Smith, the deserter, was tried regularly the next day by a general court martial and being convicted of deserting to the enemy, was publicly shot in Galveston in accordance with his sentence.²⁶

ship, when the boat was hailed and the pilot ordered to come on

When the repairs were completed on the *Harriet Lane*, General Magruder issued an order for all master mariners and seamen to report for duty on board for a cruise against the enemy at sea. A protest was at once filed by the prize commissioners, based on the fact that no adjudication of prize court condemning her had yet been reached, and such a cruise consequently would be piracy, under the law of nations. This being followed by like protests from all the master mariners of the port, the general dropped the matter, and the vessel was taken up the bay for safe keeping, pending such judicial action. She was therefore stripped of her armament, spare water tanks, etc., to reduce her draft, and taken up the channel. She grounded at Red Fish reefs, and was delayed two weeks, until a dredge boat could cut a channel into which she was hauled by the steamboat *Island City*. She finally arrived at Cloppers Bar, near the mouth of Buffalo Bayou, below Houston, at the head of Galveston Bay.²⁷ Soon afterwards the decree of the prize court condemning her as a prize of war and the lawful property of the Confederate States was duly rendered; and on the 10th of March, Captain Thos. C. Saunders and crew were paid off and discharged at Houston and the command of the *Harriet Lane* transferred to Captain Barney of the C. S. Navy, under orders of the Secretary of the Navy.

The vessel was then taken back down the channel to Galveston and refitted for sea, but not armed. Loaded with cotton, she slipped through the blockading fleet one dark night and headed for Havana, Cuba. As soon as morning came, her absence from Galveston harbor was noted—for the Federal officers with their

²⁵E. J. Davis in a personal letter to W. P. Doran afterwards described this incident and stated that Captain Payne was released upon parole in New Orleans.

²⁶Magruder to Cooper, February 26, 1863, *Off. Recs.*, Ser. I, Vol. XV, 219-220.

²⁷Andrew Thompson, Deposition before Prize Commissioners, 1863, *loc. cit.*

glasses could see every wharf in the harbor, and most of what happened thereon—and a cruiser was dispatched in pursuit. When the *Harriet Lane* arrived off her destined port, a Federal warship was observed awaiting her. Attempting to escape up the coast, the chase became too warm, and Captain Barney seeing capture imminent, ran his vessel aground, fired her cargo, and escaped with his crew to the shore in his small boats. She was not badly injured, for the fire was got under control. Refloated, she was taken into the harbor as a prize of war, duly condemned, declared unfit for naval use, and sold. Her purchasers removed the damaged engines and paddle wheels, shipped a third mast and altered her rig to that of three-masted fore-and-aft schooner. Her name was changed to the *Elliot Ritchie*, and she was put into the Atlantic coastwise service with Philadelphia as her home port.²⁸ She several times visited Galveston harbor after the war, with cargoes of coal and merchandise. I saw her there myself in 1878-1879. She was abandoned at sea in 1881 when on fire with a cargo of coal. This closes her career.

The following correspondence taken from the files of the *Galveston News* may be of some interest:

Hempstead, Waller Co., Tex., January 5th.

The *News* of today contains a report of the opening of the Grand Opera House by Miss Marie Wainright's Company. The lady is a daughter of Captain J. M. Wainright, commanding the U. S. sloop of war, *Harriet Lane*, one of the ships engaged in the battle of Galveston, January 1st, 1863, who lost his life when the boarding Confederate troops of the *Bayou City* steamer captured his ship.

Captain Wainright was standing on the bridge of his ship, giving orders, when he received a bullet under his left eye, killing him. The shot was fired by ————, one of Greens' Brigade, named ———— of Washington county. Another member, private ————, rushed forward and received the revolver, an old-fashioned Colt's cap and ball pistol. He presented it to another member named Howell. The sword unbuckled from the waist of the corpse was taken by another member, who is said to have presented it to First Lieutenant James V. Riley, who, in line of promotion after the death of his captain, A. R. Wier, who was in-

²⁸W. P. Doran (Sioux) in *Galveston Daily News*, May 22, 1895.

stantly killed early in the action by the bursting of the cannon he commanded, was promoted to the command of his Company B, First Regiment, Texas Heavy Artillery, better known as Cook's Regiment. . . .

W. P. D[oran].²⁹

Houston, Texas, January 15th.

I notice in your columns of Sunday, January 6th, an article with the following headline: "A Father's sword recovered," and below a description of the presentation of the sword, supposed to belong to Captain J. W. Wainright, who commanded the *Harriet Lane* during the battle of Galveston, January 1st, 1862, to his daughter Miss Marie Wainright.

Upon reading same, I at once recollected quite a different story in regard to this, and immediately saw my mother, who is now in Houston, and without showing her the article, questioned her carefully as to who received the sword of Captain Wainright after the war, to which she gave me the following history, saying: "Your father received the sword of Captain J. W. Wainright immediately after the battle, and at the surrender on the decks of the *Harriet Lane*. The sword was handed him by an officer then in command, who surrendered the entire fleet to him. After investigation, he found that Captain Wainright was a brother Mason, and he at once placed in safety the sword, will and other papers necessary to be delivered to the relatives of Captain Wainright, and then proceeded to give the remains of his Masonic brother burial under the rites of that order.

"After the general surrender and break up of the war your father and myself went to Havana, Cuba, taking with us the papers and sword of Captain Wainright. I left your father in Havana, and went to New York City, he giving me instructions to send for S. M. Wainright, a citizen of New York, and brother of the deceased Federal commander, which I did, and delivered to him in person the papers, etc.

"Your father, however, stated to me that he would never deliver the sword to anyone except the son of Captain Wainright. Later on we went to San Francisco, California, and after remaining there some time. Your father, after returning to the Occidental Hotel one evening, seemed delighted, and said to me that he had found the young son of Captain Wainright, who was killed at Galveston, and sent him word that he wished to see him that evening at the hotel. He called; he was presented to me and we afterward became well acquainted.

"Your father, in the presence of some of your relatives and our

²⁹Galveston News, January 6, 1895.

friends in California with a few words appropriate to the occasion, presented the son (who was then an ensign in the United States Navy, and named Jonah M. Wainright) with the sword with which his father gallantly commanded the *Harriet Lane* in one of the shortest and most decisive naval engagements during the war, and which was in his hands when he fell."

I have in my possession at this date a clipping from a San Francisco paper which was sent to my mother some years after the war, the dates of which have been torn off, which says: "The late Jonah M. Wainright, U. S. N., the gallant young ensign who fell in the affair with the pirate 'Forward' was a native of New York, and entered the navy in July, 1863. He was one of the most popular officers in the service, brave and efficient in the discharge of duty, kind and gentle towards his friends. His death is lamented not only by those who were his associates in the service, but by every member of the society in which he moved. Ensign Wainright had served three years on this coast. His master's commission was awaiting him at Panama and he was on his way to that port to be relieved when the bullet found him foremost in the attack. His brave father in 1862 was shot on the deck of the *Harriet Lane* off Galveston, a vessel which he commanded during a portion of the war. He died sword in hand, and Commodore Leon Smith, into whose hands his effects fell, on meeting young Wainright in California, presented him with the sword. Strangely enough, when the son was mortally wounded by the Mexican fire, the father's sword was in his hand. Truly the United States Navy may well be proud of such hereditary gallantry, and the memory of both father and son will be long preserved by those who serve under the flag."

I have been approached on this subject by a great many of my father's old friends, and no doubt, there are living today many such men who were present personally in the engagement and could corroborate these statements, besides the proof which I hold in my possession.

After leaving California, my father, mother and myself went to Fort Wrangle, Alaska, where my father was killed by an Indian in ambush on Christmas Day, 1869. Shortly after this, my father's remains, myself and mother, were transported on the United States steamer, *Newbern*, thru the courtesy of the government, to San Francisco, California, where my father now lies. I have been induced to make this statement of facts in vindication of a cherished hope on the part of my father, which was to deliver this sword in person to Captain Wainright's son.

Very truly yours,

Leon B. Smith.³⁰

³⁰*Galveston News*, January 20, 1895.

Lamarque, Texas, January 21st, 1895.

To the *Galveston News*:

In your paper for Sunday, January 20th, there appears an article on "The Wainright Sword," over the signature of Leon B. Smith, in which he makes several erroneous statements, which I should like to correct.

He states that the sword of Lieutenant Commander Wainright was handed to Major Leon Smith by an officer who surrendered the entire fleet to him (Major Smith). The officer surrendering the *Harriet Lane* was either Warrant-officer Hammond or Hamilton; the only two officers alive. Commander J. D. Wainright was killed; Lieutenant-Commander Edward Lea, mortally wounded; and Acting Commander Monroe, wounded; and they could not very well surrender the fleet when a commodore (Renshaw) and lieutenant-commander (Law) were still in command.

Captain Lubbock of the C. S. S. *Bayou City* was dispatched by Major Leon Smith to Lieutenant-Commander Law to demand the surrender of the United States fleet as soon as the *Harriet Lane* capitulated. (See Lubbock's testimony before Prize Commissioners of the Confederate States, now on file in Washington, D. C., and that of Captain James McGarvey of Galveston who accompanied him.)

Leon B. Smith also states that Major Smith, upon investigation, found that Commander Wainright was a Mason and buried him with Masonic honors.

In regard to that I refer you to the records of Harmony Lodge No. 6 of Galveston, under whose auspices the burial occurred, and the attached clipping from the *Opera Glass Souvenir of Free Masonry*, published in 1884, the authenticity of which you can ascertain by referring to Major C. W. Hayes of Galveston.

Mr. Smith has made these statements thru ignorance of the true facts, and I only ask for this correction, that honor may be given to whom honor is justly due. I am sirs,

Respectfully,

Philip C. Tucker, 3rd.³¹

[Excerpt from *Opera Glass Souvenir*]

"Among those killed in action was the brave Commander Wainright of the United States gunboat *Harriet Lane*, who would remain on the bridge of the steamer he commanded despite the remonstrances of his subordinate officers, and fell pierced by a minie ball fired by the sharpshooters who manned the cotton clad Confederate steamboat *Bayou City*. The officer charged with the burial of the dead sent his body with others killed in action to the

³¹*Galveston News*, January 27, 1895.

grounds of the Ursuline Convent, between Bath Avenue and Twenty-seventh Streets.

Every Commissioned officer of the *Harriet Lane* was killed. Dr. Penrose, its medical officer, Messrs. Hammond and Hamilton two of its warrant officers, on parole, made themselves known to . . . [the officer charged with the burial of the dead] . . . who was the Worshipful Master of Harmony Lodge No. 6 at the time and vouching for the fact that Commander Wainright was a Master Mason, asked that he be buried with Masonic service. The Master assented, went with them to the Ursuline Convent, and on the body being identified, caused it to be removed within the walls of the building and to be dressed in the uniform of deceased, placed a guard over it and procured a coffin from Henry Journeay, the undertaker, and issued a notice for all Masons in the city to meet at the hall next day at 11 o'clock to take part in the burial of the dead.

The air was pregnant with strife and evil, the news flew like electricity and wild was the denunciation of this course, and even among Masons, for the course indicated and the fact that the Master was born far north of the Mason & Dixon line, was brought forward to show that such a course was treason to the Confederacy.

In the discharge of military duty as a member of the staff of the general commanding, the Worshipful Master reported at staff headquarters (The Roman Catholic Bishop's Palace) in the evening.

The rooms were full. As soon as he entered the general accosted him with "Major T[ucker], I hear that you intended to bury the remains of Commander Wainright tomorrow with Masonic honors. Is it true?" The major saluted and answered, "Yes, sir, and I hope General Magruder will give it military honors. The reply was, "Who in h—ll ever heard of burying a dead enemy with Masonic and military honors?" The response was, "General Magruder, when Lieutenant Colonel Rogers of the second Texas fell at Fort Robinette, Corinth, Miss., the Federal authorities gave the body Masonic honors, and it is said you are never to be outdone in courtesy to friend or enemy." The rebuttal was: "Not by a damed sight. Colonel De Bray, turn out your regiment for escort duty tomorrow at the Masonic burial of Lieutenant Commander Wainright of the *Harriet Lane*."

The lodge met, the hall was full. When it reached the street its members were augmented by every Mason soldier who could obtain leave to be present. The general commanding with staff, a detail of Col. DeBray's regiment as escort with the colonel (a Mason) in command, the paroled United States officers with the gray in the Masonic line, the body of Commander Wainright with that of Lieutenant Lea of the same vessel was borne to the grave

and interred in the Episcopal cemetery with full Masonic services and military honors.

The Master who performed this duty despite the excitement of the day was the same who remained the day after the city was evacuated by the Confederates, October 6, 1862, and with a detail of Harmony Lodge No. 6 buried the body of Brother Saul B. Hurlburt . . . who was killed accidentally on the 6th near the gas house. He is well known to all the brethren—Philip Crosby Tucker 2d.³²

³²*Galveston News*, January 27, 1895.

HAMILTON STUART: PIONEER EDITOR¹

BEN C. STUART

Hamilton Stuart, pioneer editor and newspaper publisher of Galveston and the original State Press² editor of *The News*, was born on a farm in Jefferson county, Kentucky, nine miles north of Louisville, September 4, 1813, but was reared, educated and grew to manhood at Georgetown, Scott county, where he mastered the printer's trade in all its branches, and in 1835, when 22 years of age, published and edited the *Sentinel* at that place. On November 28, 1837, at Georgetown, he was married to Miss Beline Stuart Chambers, daughter of Colonel B. S. Chambers, who had served during the war of 1812-1815 as quartermaster of Colonel Richard M. Johnson's regiment of Kentucky mounted infantry, and whose grandfather, Fielding Bradford, in conjunction with his brother John, established the *Kentucky Gazette* at Lexington, the first newspaper to be printed west of the Alleghany Mountains. Shortly after his marriage, Mr. Stuart was informed by his physician that his lungs were affected and that removal to a less rigorous climate than that of Kentucky was absolutely necessary. Taking the advice of his physician and bearing letters of introduction to many of the prominent men in the republic of Texas, he left Georgetown late in 1837 and, proceeding to New Orleans, there took passage on a steamship for Galveston, which he reached in January, 1838. At that time the "city" of Galveston consisted of a few small houses—three or four—and a number of tents and "sod" huts. The town had not been incorporated and the island was embraced within the limits of "Harrisburgh" county, as the present county of Harris was then designated.

¹This biography was prepared by Mr. Ben C. Stuart at the request of *The Galveston News*, and was published by that paper on June 3, 1917. A few corrections have been made by the author in the present print.—THE EDITORS.

²"Mr. Stuart is in charge of a department on *The Galveston News* which is something unique. There is nothing like it on any other American paper. 'The State Press' is his feature. Texas has a large number of newspapers and many bright newspaper men. Mr. Stuart goes through the entire list of Texas exchanges and culls from them a column a day of the most startling facts and most striking opinions. These he accompanies with a few lines of comment or with additional local information from a storehouse which a wonderful memory has filled to the shingles." Walter B. Stevens in *The News*, November 17, 1894.—THE EDITORS.

After a brief stop at Galveston he embarked on a small schooner for Houston, then the temporary capital of the republic, at the junction of Buffalo and White Oak bayous. Among the other passengers was Colonel Juan N. Seguin, of San Antonio, who had commanded a company of Mexican patriots at the battle of San Jacinto, and who in after years was compelled to retire to Mexico in consequence of the ill treatment to which he was subjected at the hands of the lawless element in Western Texas. The trip from Galveston to Houston occupied nearly a week in consequence of the vessel grounding on Red Fish and Clopper's bars, and the impediments placed in the way in the bayou by the overhanging branches of trees and the number of "snags" and sunken logs in the stream.

Champagne and Ice

Reaching Houston, the capital of the republic was found to be a collection of a few houses and a number of huts and tents, and in rainy weather a sea of mud. In 1892 Walter B. Stevens, then a staff correspondent of the *St. Louis Globe-Democrat*, called on Mr. Stuart at his home in Galveston and received from him the following account of his arrival at Houston and his first meeting with the hero of San Jacinto:³

Young and hopeful, he arrived in Texas simultaneously with an event which aroused the liveliest emotion at the capital. The event was the reception of a hogshhead of ice, which had been brought by ship from New Orleans. The ice had been opened. It was probably the first that had come to the Texas capital, and when Mr. Stuart presented his letter of introduction to Sam Houston, the president of the republic, the latter was in the act of sampling the ice with the aid of a glass of champagne. The moment was rather a critical one for the newcomer. He was somewhat acquainted by hearsay with the rough and ready reputation of the Texans. There were reasons why he desired to make a good impression upon General Houston, for he had come to make his home and to seek his fortune in Texas. As he expected, General Houston invited him to drink. And, as he had determined to do beforehand, he declined. This was an extraordinary thing

³This interview contains other episodes equally interesting; it was published in the *St. Louis Globe-Democrat* August 31, 1892, and was reprinted by *The Galveston News*, November 17, 1894.—THE EDITORS.

to do in Texas in those days, especially as Mr. Stuart had come to Texas from Kentucky. Mr. Stuart told General Houston that while he might be deemed ungracious for declining the hospitality, that he had made it a rule never to take wine.

"Young man," said General Houston, putting his hand on Mr. Stuart's shoulder, "I never insist upon any one drinking with me. I sometimes think I drink too much myself. Probably it would have been better for me if I had never acquired the habit."

This was the beginning of a friendship between the two which remained unbroken until the death of General Houston in 1863, more than twenty-five years afterward.

Pioneer Houston Newspapers

Shortly after the meeting noted above, and after a brief visit to Anahuac at the head of Galveston Bay, opposite the mouth of the Trinity river, and then a thriving town, Mr. Stuart was installed as editor of the *National Banner*, which, with the *Telegraph and Texas Register*, composed the newspaper press of Houston. This connection lasted for only a short time, and was terminated in consequence of the proprietors sending articles to the press without submitting them to the scrutiny of the editor. Mr. Stuart then determined to branch out for himself, and in connection with Drs. Levi Jones (whom he had known in Kentucky) and R. A. Irion, Secretary of State in President Houston's cabinet, began the publication at Houston of a weekly called the *Civilian*, the initial number of which appeared May 8, 1838. Then, as now, most of the men prominent in public affairs in Texas, were "generals," "colonels," "majors," "captains," and the name of the paper was chosen as a mild protest against the mania for military titles on the part of many who, in the language of Shakespeare, "never set a squadron in the field, nor of the diversion of a battle know aught than a spinster." The paper supported Peter W. Grayson as a candidate for President to succeed Houston, who was ineligible under the Constitution to a second successive term, but he died before the election,⁴ and Mr. Stuart, having contracted

⁴News of the tragic death of P. W. Grayson, which occurred at Bean's Station, Tennessee, July 18, 1838, did not reach Texas until the early part of August. A sketch of Grayson, printed in the *Civilian*, was copied by the *Telegraph and Texas Register*, August 11, 1838.—THE EDITORS.

"bayou fever," was incapacitated and the paper was suspended in the summer of 1838. At that time Houston was notoriously unhealthy, and he decided to remove to Galveston, which was then making good progress. There he was joined by his young wife, who had come out from Kentucky in charge of friends, and whose first view of the muddy shores of Galvetson Island, traversed by myriads of "fiddler" crabs, was a vivid and not a pleasing contrast to the scenery of the "dark and bloody ground" which she had so recently left. The first boarding houses (and the only ones) patronized by the young couple before setting up for themselves were those of Misses Humphries, estimable Kentucky ladies, who were located on Market Street near Twenty-second, and Mrs. Dr. O. P. Kelton, which was located on the southeast corner of Market and Sixteenth Streets, where the convent of the Sacred Heart now stands. In 1839 Mr. Stuart purchased a home and two lots on the south side of Church Street, near Tremont, and there on May 4, 1840, his first child was born—the late Mrs. Florence Stuart Wheeler, who died at Hitchcock, Galveston county, June 8, 1911.

Second Galveston Newspaper

On the 28th of September, 1838, Mr. Stuart began the publication of the *Civilian and Galveston Gazette*, a small four-column folio, published weekly, and first printed on an old-style "Ramage" press. The paper was a supporter of Sam Houston from the start, and continued to be so until his enforced retirement from public life, March 16, 1861. The first newspaper started in Galveston was the *Commercial Intelligencer*, which made its initial appearance in July, 1838, under the editorial management of John S. Evans. So far as can be learned it finally suspended in 1840. Upon the incorporation of the city of Galveston, and at the second secession of the board of aldermen, held April 2, 1839, the committee appointed to wait on H. Stuart reported that he had signified his willingness to make a reasonable deduction on city printing, and only require a settlement once a year. The early years of Galveston's existence as a "city" were marked by many vicissitudes, and its progress was slow, retarded as it was by the lack of men, money and the sinews of improvement, to say nothing of

the lack of a producing county to build up and sustain her. In 1839 the first disastrous yellow fever epidemic swept over the city (and Houston as well), carrying off many people who gave promise of becoming valuable citizens, and it was also a very bad crop year, nothing being produced for exportation, and immigration continued to be the only hope. The succeeding years of 1840, 1841, 1842 and 1843 passed with but little change, and although immigration enlarged the population and expanded agriculture, thereby adding to the wealth of Galveston in a corresponding degree, it was a period of financial trouble, the currency being greatly depreciated and the credit of the Republic prostrate. With 1844 an improvement began, direct communication with Europe increased, and Galveston speedily assumed the garb of a flourishing town. Up to 1847, Mr. Stuart conducted the paper alone, when Mr. Samuel J. Durnett, who had been the publisher of the *Brazos Planter*, secured an interest, and took charge of the mechanical department, remaining until 1850.

In 1849 Mr. Stuart was elected mayor of Galveston, and was re-elected in 1850, 1851 and 1852. In January, 1853, Mr. D. Ferguson secured an interest in the paper, and in March of the same year Mr. Stuart was appointed by President Pierce to be collector of customs at Galveston, and in March, 1857, was reappointed by President Buchanan, serving until March, 1861, when Texas was out of the Union and a member of the Southern Confederacy. He had settled his accounts with the United States to the last cent, and was succeeded by James Sorley, the first and only Confederate collector of customs at Galveston. During Mr. Stuart's tenure of office as collector of customs work on the first Federal building in Galveston (generally known as the Old Post-office) was begun (1857), and was completed just as his term expired in 1861.

Some Journalistic Associates

In 1854 Major John Henry Brown, the Texas historian, became interested with Mr. Stuart in the *Civilian and Gazette*, and was installed as one of the editors, the firm as then constituted being Stuart, Durnett and Brown. In 1856-57, a steam power press was put in, and the publication of a daily edition began, which was only printed during the busy season from September 1 to

April, and during the dull months a semi-weekly and weekly were published. By 1858-59 the circulation of the weekly had grown to some 2,500 or 3,000 copies. In January, 1858, Major Brown retired, and in January, 1860, Mr. Durnett's interest was acquired by Mr. Adolf Menard, who became the junior editor.

Mr. Stuart had always been a consistent Democrat, had strongly opposed "native Americanism" or Know-Nothingism in 1856, when it made some headway in Texas, and had been a Union man, opposing secession, although without sympathy with the Republicans or Abolitionists of the North. In 1861, after Governor Houston had been deposed by the action of the secession convention, his Secretary of State, Major E. W. Cave, who also had been ousted, became one of the owners and editors of the paper, and they were among the "old guard" who accompanied General Houston when he made his celebrated speech from the east gallery of the old Tremont House in spite of the threat made that he should not be heard.⁵

In 1862, in consequence of the blockade of the port of Galveston, the *Civilian* was suspended, and Mr. Stuart temporarily retired to a farm in Chambers county, returning to Galveston in 1864.

With the close of the Civil War he was forced to begin life anew in the place where he had started as a young man in 1838, and in July, 1865, revived the paper. In his salutatory, among other things, he said:

Government, society, industry, morals, religion have suffered such damage as was never inflicted on life and property by a great tempest from the skies. In this work of repairing damages there is sufficient employment for all, and we propose to recommence our humble part where we began in 1838, and assist to the full extent of our poor powers, and with all the means within our control, to promote the cause of civil liberty, of order and law; to discourage intolerance, violence and mob law, now and hereafter, as heretofore; to disseminate useful information, promote industry and encourage such discussions in regard to the proper functions of government, and the duties of citizens as may tend to restrain the one within its proper limits and inculcate in the other a proper sense of their obligations to themselves and others. They

⁵The circumstances attending the delivery of this speech are given in the interview referred to in note 3 above.—THE EDITORS.

constitute a material part of the education of the young and are of vital and abiding importance to people of all ages. They rise above all 'sensation items' of the day, and will continue to form the most important staple of newspaper discussion when the accounts of the great battles of the late calamitous war shall only be referred to as so many warnings against political intolerance and sectional fanaticism.

For the next few years after its revival the paper achieved a fair measure of success, and in 1868 W. H. Pascoe acquired an interest in the plant, and in 1869 Colonel J. S. Thrasher, from the *New York Herald*, became one of the editors and owners, the paper for a few months appearing in the morning. At that time Galveston, with a population under 25,000, attempted to support three daily papers, as follows: *The News* (morning and evening), *Flake's Bulletin* (morning and evening), and the *Civilian* (evening), with the result that the *Bulletin* suspended in 1873, the *Civilian* in 1886^o and a half dozen ephemeral ventures in the meantime, leaving *The News* the only morning paper in the field. In January, 1874, Mr. Stuart severed his connection with the paper he had founded thirty-six years before and became attached to the editorial staff of *The News*, where he remained to the time of his death at 2:30 a. m., Friday, November 15, 1894, at the age of 81 years 2 months and 11 days.

In 1865, under the "presidential plan" of reconstruction, he was tendered the appointment of mayor of Galveston by Hon. A. J. Hamilton, the provisional governor, but as he put it, "respectably" declined the offer. In 1866, in conjunction with Hon. Frank H. Merriman, he represented Galveston county in the constitutional convention, and in 1870-1873 served as alderman. In 1869 he was the nominee of the "editorial convention," held at Brenham, for the position of Governor. He was opposed to negro suffrage, and to the reconstruction constitution. Made no canvass and had no expectation of election, receiving only a few votes from Democrats who would not support the so-called "conservative" candidate, fresh from the Republican camp.

In 1887 his wife died a short time before the fiftieth anniversary of her wedding, and from that time forth he pursued his edi-

^oIn a letter to the editors, Mr. Ben C. Stuart states that the office files of the *Civilian* were destroyed by fire, November 14, 1885.

torial duties in a calm and philosophical mood, awaiting the final summons, having outlived the most of his contemporaries. He preserved his mental faculties to the last, knew that the end was near and awaited it without fear and without regret. He was a member of no religious sect, but was a truer Christian than many who make a show of religion, and left to his descendants an unsullied name. His acquaintance with the public men of Texas was wide, and among them he numbered hosts of friends.

His funeral was one of the most largely attended ever held in Galveston, the service of the Protestant Episcopal Church being read by Dr. Carter, Rector of Grace Church, after which a few remarks were made by his friend, Dr. Henry Cohen, the rabbi of the congregation B'nai Israel. His remains rest in the old City Cemetery at Galveston beside his wife and children, and where four generations of the family are interred.

Three of his children survive at this writing, Mrs. J. K. Moore, of Luling; Mrs. F. D. Minor, and Ben C. Stuart, of Beaumont.

It can be stated that Mr. Stuart's editorial career covered a period of fifty-eight years, two of which were spent in Kentucky and fifty-six in Galveston.

Of Mr. Stuart, one who knew him has written:

"As a boy in *The News* office I talked with Mr. Stuart once about himself. He was a man of cheerful nature, philosophical and with a sense of humor, and everyone who came in contact with him liked him. He told me that the reason he lived so long and had such good health was because of his very regular habits, because he did not smoke, didn't drink and because he took the very best care of his body, as well as of his mind. I remember him in his later days when he used to get up maybe at 5 or 6 o'clock in the morning and go to market and then go to the postoffice to get his papers. This was when he was doing most of his work at home."

⁷Almost daily for nearly a month after his death, *The News* printed in "State Press" column a sheaf of editorial tributes to Mr. Stuart, clipped from its exchanges.—THE EDITORS.

THE NATIVE SONS' FELLOWSHIPS

CHARLES E. CHAPMAN

A. *The Native Sons of the Golden West.*—The Native Sons of the Golden West have the unique distinction of being perhaps the only fraternal society in the United States which devotes its efforts and its funds to the promotion of State history. In so doing, they are taking the logical course springing out of the circumstances of their origin and membership. The idea for the founding of the order originated with General A. M. Winn, who, as grand marshal of a Fourth of July parade at San Francisco in 1875, had arranged for a division of marchers made up entirely of young men "born under the American flag" in California. Such a group was formed, and it marched in the parade, held that year on Monday, July 5. The following Sunday, July 11, a number of the participants and others within the terms of General Winn's call held a meeting, and at Winn's suggestion formed a society, choosing the name which still endures. In March, 1876, the society was incorporated, at which time it had a membership of 113. Membership was limited to men (over eighteen) born since July 7, 1846, the date when Commodore Sloat took formal possession for the United States at Monterey.¹ In 1885, the rules were extended to include native Californians born before the raising of the American flag, as well as those born afterward.

The founders seem originally to have contemplated an extension of the order into the various states of "the Golden West," but it is perhaps fortunate for the cause of history that the order eventually became purely Californian in its aims. It has increased in influence, until today there are 174 chapters, or "parlors," with a membership (December 31, 1916) of 20,722. Closely affiliated with it is the order of the Native Daughters of the Golden West, a similar organization for California women, with a total of 143 parlors.

The Native Sons have long been engaged in work tending to the perpetuation of the records of California's past. To them are

¹General Winn and one G. W. Anthony were admitted as honorary members; neither was a native of the state.

due the making of many historic spots and the repair and preservation of the far-famed California missions. Not the least important of their measures was the founding of the Native Sons' Fellowship in History at the University of California.²

B. The founding of the fellowships.—At the "Grand Parlor," or general, meeting of the Native Sons at Marysville in April, 1909, a resolution was adopted for the appointment of a committee of five to investigate and report, at the next session of the Grand Parlor, as to the feasibility of establishing a chair in California history at the state university. The committee conferred with Professor H. Morse Stephens, head of the history department at the University of California, who advised them that it would first be necessary to train a man for the position, since there was no one properly qualified for it. Professor Stephens suggested the founding of two annual fellowships of \$1500 each, to enable the holders to study California history at its sources in Spain and elsewhere. This idea was accepted by the committee, and was recommended to the order at the next meeting of the Grand Parlor, held in June, 1910, at Lake Tahoe. The resolution was referred to the finance committee, which reported in favor of a gift of \$1500 to the University of California for a Native Son's Fellowship for the following year. In this form, the resolution was adopted, and a committee of five was appointed to co-operate with the authorities of the university in carrying out the details of the grant. In June, 1911, at the Grand Parlor meeting, held at Santa Cruz, the sum of \$3000 was voted for two fellowships. Since that time, this amount has been appropriated for this purpose annually.³

C. Brief history of the fellowships.—While the Native Sons were evolving toward the idea of the fellowships, steps were be-

²Section A is based on Jung, Fred. H., *What, who, and how, the Native Sons*, in *Grizzly Bear magazine*, v. XX, no. 6, p. 25; April, 1917. Mr. Jung is Grand Secretary of the order.

³This paragraph is based upon a letter to the present writer by Mr. D. Q. Troy of Oakland, historiographer of the N. S. G. W. order. The letter is dated May 23, 1917; it contains much more than the brief statement given here, for which reason it has been turned over to the Bancroft Library. A noteworthy source for additional information is the *Grizzly Bear Magazine*, organ of the N. S. G. W. and the N. D. G. W., where detailed accounts of Grand Parlor meetings are to be found.

ing taken at the University of California which had much to do with the later success which the Fellows may fairly be said to have achieved. During his sabbatical year of 1909-1910, Professor Stephens spent several months in Spain, with the object of finding out whether an investigation of the archives of that country would yield much in the way of materials for California history. Without attempting an intensive investigation, he found enough to warrant a belief that a number of years could be spent there profitably, especially at the Archivo General de Indias, by students interested in the history of the Pacific coast. With this information and with many valuable copies, he returned to Berkeley, where he proceeded to take a fresh step in the upbuilding of a school of Pacific coast history. Since he himself was not a specialist in that field, it was necessary to find somebody who could train students for the problems that would confront them in making use of the materials in Spain. The logic of events pointed to Professor Herbert E. Bolton, then at Leland Stanford University, as the ideal man for that place. For many years, Professor Bolton had been the acknowledged master in the field embracing the former Spanish frontier, in regions now within the United States. Furthermore, he had made extended investigations of the archives of Mexico, the results of which were, shortly afterward, published in his well-known *Guide* in the Carnegie Institution series. In 1911, Professor Stephens was successful in his effort to induce this scholar to accept a position at the University of California, where he was to have principal charge of the graduate work in the department of history. In the meantime, however, the first Native Sons' Fellow had been appointed.

To Mr. Lawrence Palmer Briggs, Native Sons' Fellow for 1911-1912, all subsequent Fellows, and the writer more than all, owe a debt of gratitude. His was in a measure a step in the dark. Going to Spain without the benefit of Professor Bolton's training, and without an adequate idea of the problems awaiting him, he was placed in a more difficult position than any subsequent Fellow has been. It is gratifying to know that his work has had a positive result, even though he himself was not to bring it to fruition, for the publication of Dr. Priestley's volume on *José de Gálvez* depended in great degree on the investigation of Mr. Briggs.

His experiences in Spain, however, were of more particular value to the later Fellows, and especially to the writer, who was the next to go to Spain.⁴

The work of the writer as Native Son's Fellow in Spain from 1912 to 1914 resulted in the preparation of his *"Founding of Spanish California"* and his *"Catalogue of Materials in the Archivo General de Indias for the History of the Pacific Coast and the American Southwest,"*⁵ besides a number of articles. Upon his return, in 1914, he was appointed to a position in the history department of the University of California, and became the first instructor in the history of California at that University. Thus, one of the objects of the Native Sons was achieved.

The other fellowship for 1912-1913, the first year in which two were available, was divided between Mr. Joseph J. Hill and Mr. Tracy B. Kittredge, both of whom, as Resident Fellows, rendered service in the Bancroft Library. Mr. Hill carried on an investigation concerning the history of the Mormons in California.⁶

For the year 1913-1914, Mr. William Lytle Schurz was appointed, serving in Spain at the same time with the writer, after which Mr. Schurz was named for a second term, ending in 1915. His volume on the *"Manila Galleon"* is expected to be one of the next publications of the University of California.⁷

The second Fellow for the year 1914-1915 was Mr. Gordon C. Davidson. Instead of sending him to Spain, a departure from the usual practice was made when Mr. Davidson was instructed for work in England. He was on board the *Empress of Ireland* when that vessel went down at the mouth of the St. Lawrence river, losing all the notes with regard to his work that he had thus far prepared. Nevertheless, his year was spent to good ad-

⁴Upon his return from Spain, Mr. Briggs entered the United States consular service, and is now stationed at Saigon, Cochin China.

⁵A two-volume work now in press at the University of California.

⁶Mr. Hill has since been teaching in Utah. He is now in attendance again at the University of California, where he hopes to complete the work begun by him in 1912. Mr. Kittredge, after a period of service with the Belgian Relief Committee, is in England at the time of going to press.

⁷Dr. Schurz is now Assistant Professor of Latin American History at the University of Michigan, where he is listed for courses in Latin American history and the history of the Pacific area, offshoots of his service as Native Sons' Fellow.

vantage, and his "*History of the North West Company*" is already listed for publication at the University of California.⁸

Dr. Charles H. Cunningham and Mr. Karl C. Leebrick were appointed in 1915. The latter remained one year. A volume by him, "*The English Expedition to Manila in 1762*," is soon to be published. He also gathered materials for a catalogue, similar to the present work, covering the *Duplicados de Comandantes Generales* in the Audiencia de Guadalajara group of the Simancas papers.⁹

Dr. Cunningham remained two years in Spain, from 1915 to 1917. He has a volume on the *Audiencia de Filipinas* on the calendar for publication at the University of California, and has also been carrying on other institutional studies at Seville bearing upon Spanish American history.*

The second fellowship for 1916-1917 was awarded to Mr. Tracy B. Kittredge, who almost immediately resigned. His place was taken by Mr. George Leslie Albright. No finer young man or more promising scholar even went forth from the University of California than Mr. Albright. On December 15, 1915, he died at Seville, a victim of typhoid fever. He had continued work at the archive up to the day he was obliged to go to bed, and, to the last, seemed chiefly concerned over the check in the progress of his work. His volume on the Spanish frontier of New Spain and his proposed catalogue of the viceroy's correspondence will never appear over his name, but a master's thesis written by him, entitled *Federal Explorations for Trans-continental Railroads*, has been found to be so meritorious that it will be published at the University of California.¹⁰

Owing to the entrance of the United States into the war against Germany, it has become impossible to send Fellows to Europe for the present. Four Resident Fellows have therefore

⁸Dr. Davidson is now a lieutenant in the 19th Reserve Battalion of Canadian Infantry, on service in France.

⁹In 1917, Dr. Leebrick was appointed Instructor in Modern European History at the University of California.

*Dr. Cunningham is serving for the year 1917-1918 as instructor in Spanish-American history at the University of Texas.

¹⁰At the Grand Parlor meeting of the Native Sons, held at Redding, in April, 1917, a memorial estante, or legajo stack, to Mr. Albright was voted. It will be placed in the Archivo General de Indias at Seville.

been appointed for 1917-1918. They are Dr. Charles W. Hackett, Mr. John Lloyd Mecham, Mr. Charles S. Mitrani and Mr. J. Fred Rippy.¹¹

Dr. Hackett is already the author of a number of historical articles, and has a volume entitled *The Uprising of the Pueblo Indians of New Mexico in 1680* on the calendar for publication at the University of California.

It will be noticed that the Fellows have each prepared one or more volumes, all of them having a demonstrable bearing upon California history, as part of their work in connection with the fellowships. They have also procured copies for the use of a great body of students, not only for the Bancroft Library, but for other libraries and for a number of American scholars as well; they have represented the University of California on formal occasions in foreign lands; and, finally, they have prepared themselves for university positions, whereby they may spread the gospel of "the Golden West" throughout the country.

¹¹Mr. Mecham and Mr. Mitrani have since resigned their fellowships and have gone to France to take part in the war. They are in the University of California Red Cross ambulance unit number two.

MINUTES OF THE AYUNTAMIENTO OF SAN FELIPE
DE AUSTIN, 1828-1832

II

EDITED BY EUGENE C. BARKER

[p. 14] Town of Austin, January 24, 1829.

The ayuntamiento met in special session, with the president and the two *regidores* present. Mr. League, second *regidor*, read a letter from Citizen Samuel M. Williams in which he accepted, under certain conditions which [he stated] in his said letter of the 15th instant, the appointment to the office of secretary of this ayuntamiento. And in consequence of the difficulty which exists of getting persons acquainted with both English and Spanish, as well as in view of the burden of the labors of the secretary of this ayuntamiento, he has thought well to fix one thousand dollars a year for his services, or one hundred dollars a month in case he is not able to serve in the office for the year. This salary is to be paid the said Williams from the public funds. The said letter is placed in the archives for the purpose for which it may be needed.

J. White.

H. H. League, [Secretary] pro tem.

[p. 14a] In continuation: Considering the great importance and necessity of organizing the national militia of this jurisdiction, and as many difficulties exist in the "Regulation of the civil militia"¹² of this state, by article 13, which requires that the battalion of infantry for Texas be raised in Austin, Nacogdoches, and adjacent [districts], and as article 14 provides that the force shall be increased when the empresarios commence to introduce the families of their contract—

This ayuntamiento encounters much difficulty in organizing the militia conformably with the said article 13, and for that reason this body considers it necessary to consult the supreme government [of the state] on the matter, with the object of seeing

¹²Decree No. 58, May 14, 1828, is omitted from the official publication of the Laws of Coahuila and Texas. There is a copy in the *Bexar Archives* of the University of Texas.

if there is a way to organize the militia of Austin as a battalion of mounted infantry. For this purpose the secretary will send the necessary letter consulting the supreme government on the matter.

In continuation, First *Regidor* Davis proposed that, while the supreme state government is deciding the matter, a provisional organization (*alistacion*) be effected by the election (*nombromiento*) of the officers of the companies, so that in the event of the country's requiring the services of the militia of the jurisdiction, it will be to some extent in condition to offer itself.

Likewise it was agreed that, considering the great necessity which exists in the municipality, in common with the rest of the nation, for *medidas arregladas*, the secretary be empowered to request the necessary instructions on the matter from the political chief of the Department.

Nothing else offering, the regular session was closed until the coming month of February.

J. White.

Samuel M. Williams, Secretary.

Town of Austin, February 2, 1829.

The ayuntamiento met in regular session, with the *alcalde* and the two *regidores* present and the *sindico procurador*, William Cooper, absent. It was agreed by the members that, as the *alcalde* was occupied with judicial business, the present session should be closed, and that a meeting should be held on the 9th to take up the matters presenting themselves for consideration.

J. White.

Samuel M. Williams, Secretary.

[p. 15] Town of Austin, February 9, 1829.

The ayuntamiento of this jurisdiction met, composed of the *alcalde* and the *regidores*, the *sindico procurador*, William Cooper, being absent. The session was adjourned until tomorrow on account of the illness of the secretary, who could not attend the session.

J. White.

Samuel M. Williams, Secretary.

Town of Austin, February 10, 1829.

The ayuntamiento met in conformity with the resolution of yesterday. The second *regidor* took up the question and proposed

that the body proceed to make the estimate of municipal expenses as well as to propose to the government the taxes which it thought necessary to cover the expenses. In order that these important measures might be attended to promptly, the president appointed the two *regidores*, Stephen F. Austin, and Ira Ingram a committee to collect data for the formation of a scheme of taxes to be proposed to the supreme government of the state.

In view of the great necessity which exists that the road from this town to the mill on Palmito Creek [should be improved?], in order that resources of the first necessity, such as corn meal, may not fail the citizens, [p. 16] the president appointed the two *regidores* and Ira Ingram a committee to carry into effect this important object.

The session closed until tomorrow.

J. White.

Samuel M. Williams, Secretary.

Town of Austin, February 11, 1829.

The ayuntamiento met in conformity with the resolution of yesterday, with the alcalde and *Regidores* Davis and League present and *Sindico Procurador* Cooper absent. The president submitted the question of the organization of the national militia, and it was taken under consideration. And in view of the fact that the political chief of the department, in his letter of the 6th of this month, orders the ayuntamiento to proceed without delay to the organization of the militia and the formation of a battalion of infantry in conformity with the provision of law No. 58 of July 23, 1828, this ayuntamiento has agreed that for the better formation of companies and battalion the jurisdiction of Austin shall be divided into districts as follows:

1. The territory comprehended within the following limits shall constitute the district for a company which shall be called the First Company—that is to say, beginning on the east bank of the Brazos River at the lower line of John [p. 16a] Foster's land; thence eastward following the said lie to where the waters of Buffalo Bayou are divided from those of the Brazos; and from there following this divide northward to the Atascosito road; thence eastward following the road to the watershed between the Trinity and the San Jacinto, which is the eastern boundary of the juris-

diction of Austin; thence northward following the said eastern boundary of this jurisdiction to the upper or Bexar road; thence following the road westward to the watershed between the Colorado and the Brazos; thence south along this watershed to the head of San Bernard Creek; thence following down the Bernard to the lower line of Thomas Slaughter's league, including all Slaughter's league; thence to the head of the creek called Llano or Big Creek; thence following the creek to the Brazos; and thence up the Brazos to the above mentioned line of Foster, the point of beginning.

2. The territory comprehended within the following limits shall compose another district for a company which shall be called the Second Company—that is to say, beginning on the east bank of the Brazos River at the lower line of John Foster's land, and from there following down the river to the upper line of Francis Biggam's land; thence eastward to Chocolate Creek; thence following the creek to the bay; thence following the coast to the eastern line of the jurisdiction, between the Trinity and the San Jacinto; thence northward following the said eastern boundary of the jurisdiction to the Atascosito road; thence following the road westward to the watershed between the Brazos and the San Jacinto (*sic*); thence southward to the southeast corner of the first district; and thence westward to the point of beginning on the line of Foster.

3. The territory comprehended within the following limits shall compose another district for a company to be called the Third Company. [p. 17] Beginning on the east bank of the Brazos River at the upper line of Francis Biggam's land, and from there following the line of the second district to the mouth of Chocolate Creek; thence westward following the coast to one league west of the San Bernard; thence northwest following the southwest boundary of the leagues surveyed on the west bank of the San Bernard and fronting on the said San Bernard to the upper boundary of League No. 20; thence in a northeastward direction to Llano Creek or Big Creek; thence following the said creek downward to the Brazos; and from there running up the river to the said upper boundary of Biggam, the place of beginning.

4. The territory comprehended within the following limits

shall compose another district for a company to be known as the Fourth Company: Beginning on the coast at the southwest corner of the third district, a league west of the San Bernard, and following the coast from there westward to the mouth of Lavaca Creek; thence up the said creek to the Atascosito road; thence eastward along the said road to the San Antonito Creek, or "Scull Creek"; thence down this creek to the Colorado River; thence eastward to Eagle Lake; thence to the lower line of the before mentioned Slaughter's league on the San Bernard; thence to the head of Llano or Big Creek; and down said creek to the line of the third district, which is followed to the point of beginning.

The territory comprehended within the following limits shall compose a district for half a company: Beginning at the head of Llano Creek [p. 17a] and following thence the north line of the fourth district to Lavaca Creek; thence up the said creek to its head; thence north to the Bexar road; thence east along the road to the watershed between the Brazos and the Colorado; thence southward following the western boundary of the first district to Big Creek at the point of beginning.

Then, in conformity with decrees Nos. 58 and 69¹³ on the organization of the militia, the citizens subject to militia duty shall meet in the respective districts the 13th day of next March for the election of the officers prescribed by the above mentioned law No. 58. These elections shall be presided over by persons appointed by this ayuntamiento. And since, by provision of the supreme government, the colony of the citizen empresario Green DeWitt is provisionally joined to the jurisdiction, in accordance with the official letter of the chief of the department, dated the 6th of the present month, such part of the company shall be formed in that colony as its population shall justify according to the law. This force shall be joined to the Austin battalion until the increase of the population shall require other arrangement, or the superior authorities shall otherwise determine. For this reason the ayuntamiento will send the appropriate instruction (*relacion*) to the empresario for the organization of the militia and the election of officers, as provided by law.

¹³In Gammel, *Laws of Texas*, I, 220.

Everything passed in today's session being approved, the ayuntamiento passed to a consideration of the best method of getting a circumstantial notice of the births and deaths in the jurisdiction, in order that this ayuntamiento may comply with the requirements of law [p. 18] No. 37 as to marriages, births, and deaths in this municipality—as also the list of births and deaths of children born to slave parents in Coahuila-Texas.¹⁴

The first *regidor* proposed that the inhabitants be required by public notices to furnish monthly the necessary information on this subject, which was approved unanimously; and the ayuntamiento decreed that the secretary should as soon as possible circulate the proper notices through all parts of the jurisdiction, urging the inhabitants as good citizens to carry into effect as far as possible this necessary requirement.

The session closed.

J. White.

Samuel M. Williams, Secretary.

Town of Austin, February 20, 1829.

The ayuntamiento of this municipality met in special session to receive from the committee appointed for that purpose in the session of the 10th the plan of taxes which it had formed. The president and the two *regidores* were present; the *procurador*, William Cooper, not having returned.

The discussion of the plan was begun. Mr. Ingram read a memorial or paper on the subject, and the committee presented a plan, which, after amendments (*endaciones*) and [p. 18a] revisions, the ayuntamiento adopted. It was as follows:

Plan of taxes which the ayuntamiento of Austin proposes to meet (*subvenir*) the ordinary and special expenses of the said jurisdiction for the years 1829 and 1830.

1. For each of the years 1829 and 1830 the owners of the property specified below shall pay as follows: each league and each *labor* of land granted to individuals in the jurisdiction shall pay at the rate of \$4.50 a league and \$1 a *labor*; 6¼ cents for each

¹⁴See art. 121 of Decree No. 37, THE QUARTERLY, XXI, 330. Decree No. 18, September 15, 1827 (Gammel, *Laws of Texas*, I, 188) required the ayuntamiento to keep a register of the birth of children to slave parents after the publication of the constitution. This was of course for the purpose of carrying out the constitutional provision for the liberation of such children at the age of fourteen.

head of cattle over one year old; 50 cents a head for horses of the so-called American breed; 12½ cents a head for gentle Mexican horses; 6¼ cents a head for unbroken horses or horses in the herd; 25 cents a head for mules; 75 cents a head for burros; 2 cents a head for hogs; \$2 for each negro servant; \$1 for each town lot; \$2 for each garden lot in the town limits.

2. An attorney who practices before the alcalde of the jurisdiction shall pay \$25 a year. [p. 19] If he is a foreigner, not legally settled in the county, he shall pay \$150.¹⁵

3. Each person who is a foreigner, not legally settled as an inhabitant of the jurisdiction according to the colonization law, who sells merchandise within the jurisdiction shall pay to the public funds \$150 for each store or separate establishment. He shall take out a license, which shall be given by the ayuntamiento, to sell merchandise in the said jurisdiction for one year from the date of the license, and anyone who sells or tries to sell any merchandise whatever before having presented himself to the ayuntamiento, paid the said \$150, and taken out the said license, shall incur the penalty of paying three times that amount. The foreigner who delivers his goods to a citizen of the jurisdiction to sell for him shall pay 5 per cent on the sales, and the citizen who makes the sales shall be responsible for the same, for which reason he shall make to the ayuntamiento every three month an accurate and sworn report of the amount of his sales for foreigners, and shall pay at the end of each three months the said 5 per cent on such sales, under the penalty of incurring a fine of three times the amount for which he fails to give account.

4. Each merchant who is a citizen of the jurisdiction, legally established according to the colonization law, shall pay to the municipal funds \$25 for each store or separate establishment that he has, and shall take out [p. 19a] a license, which shall be given to him by the ayuntamiento to sell merchandise for a year from its date; and one who sells or offers (ententa) to sell within the jurisdiction any merchandise not the product of the jurisdiction

¹⁵Cada persona que ejerce el oficio de agente publico para atender á los negocios de particulares ante el alcalde de la jurisdiccion de Austin pagara 25 ps. Cada año. Estas personas ejercen los veces de abodagos. Si la persona llega á ser un extranjero no legitimamente establecido en el pais pagara \$150 para ejercen los veces de que habla la primera parte de esta articulo.

before having presented himself to the ayuntamiento and paid the said \$25 and taken out the said license, shall incur a fine of three times that amount.

5. Each person who is a foreigner, not a citizen, who establishes a shop for the retailing of liquor shall pay \$150 a year. Wherefore he shall take out a license as in the other cases, and shall be subject to the same penalties; and if he delivers his liquor to a citizen to sell he shall pay 5 per cent, as in the case of merchandise, under the same rules before established.

6. Each citizen legitimately settled who establishes a retail liquor shop shall pay the municipal funds \$50 a year and take out a license for the purpose from the ayuntamiento, under the same formalities and [p. 20] subject to the same penalties as in other cases.

7. It is absolutely prohibited for any one who has not taken out a license for a shop (*pulperia*) to sell under any pretext any sort of liquor or wine in quantity less than a gallon English measure, equal to about five *quartillas* Mexican measure; and it is forbidden that any part of this quantity be drunk in the shop or in its doorway. Any one who fails to comply with this article shall incur the penalty of paying the price of a license for the shop. Anyone who sells dry goods in a shop licensed as a liquor shop shall pay in addition the price of a license for merchandising.

8. Those who wish to establish public inns or taverns shall receive a license for the purpose from the ayuntamiento, which shall be given *gratis* under the rules and restrictions considered necessary to prevent their becoming the receivers of vicious people, or selling other liquors than those necessary for the consumption of the guests. The ayuntamiento shall keep the said taverns under its supervision, and may annul the license above mentioned and exact the price of a liquor shop license, when in its judgment the tavern becomes a liquor store rather than an inn for the accommodation of travelers.

9. In the foregoing articles are comprehended the sale of merchandise or liquors on board [p. 20a] any vessel in the bays or rivers of the jurisdiction.

10. The ayuntamiento shall formulate the general regulations which may be necessary for the collection of the said tax, enforce-

ing their exact observance by fines; and shall from a list by names of the amount that each one should pay according to the basis established. Copies of this list shall be posted in at least six public places, besides the capital, so that all may learn the amount that must positively be paid before the first day of November of the current year, 1829, into the treasury of the municipal funds. For the year 1830 half shall be paid the first day of June, and the other half the first day of November. At the request of the ayuntamiento the alcalde shall issue to the *alguacil* (sheriff) of the jurisdiction a writ against the property of any one who fails in the said payment, for the purpose of raising the money by public sale of the property of the delinquent within the term of twenty days. The cost of this execution shall be paid by the said delinquent.

11. All the funds remaining after [p. 21] appropriating what is necessary for the town hall, jail, and ordinary expenses, shall be applied toward the building of a school house.

J. White

H. H. League

S. M. Williams,

Secretary.

Note.—According to an estimate made by this ayuntamiento from the best data that it can obtain, it appears that the above plan of taxes will produce between \$4,500 and \$4,866.50 for each year.

Continuing, the ayuntamiento passed to a discussion of the formation of two estimates of municipal expenses—the first for ordinary expenses, and the second for extraordinary expenses—with the following results:

*Estimate of the Ordinary Expenses of the Municipality of Austin
for the Year 1829*

Salary of a secretary learned in the Spanish and English languages, to discharge the duties of the office and to serve as translator for publication of the decrees and orders of the government and to inform (*poner en conocimiento*) the members of the ayuntamiento of

all that the government orders for the due fulfillment of the ayuntamiento.....	\$1,000.00
Paper, blank books, inkstands, ink, pens, sand, wafers, etc., etc., which for lack of funds are bought in the shops very dearly.....	125.00
Rent of a house for the ayuntamiento, which serves as town hall; wood; candles, etc.....	160.00
Tables, benches, table-covers, and two cases for the archives	125.00
Contingent expenses, for sealed paper for the book of ordinances, etc., sending letters, presents for Indians, etc.	47.25
[p. 21a] Debt contracted by the ayuntamiento of last year, as shown by the accompanying account.....	409.25
	<hr/>
	\$1,866.50

Estimate of the Special Expenses of the Ayuntamiento of Austin for the Years 1829 and 1830

For the building of the jail.....	\$4,000.00
For the building of the town-hall.....	2,000.00
	<hr/>
	\$6,000.00

Note.—This estimate for the years 1829 and 1830 was made to assist the ayuntamiento in making the necessary contracts with contractors, by giving them security for the faithful payment for their work on the terms stipulated by both parties, through the government's approval of the plan of taxation and the estimate proposed by the ayuntamiento, and that there shall be no delay in the payments as agreed upon between the ayuntamiento and the contractors. The ayuntamiento wants to pay half this year and the other half the coming year, 1830.

J. White,
Samuel M. Williams,
Secretary.

[p. 22] Town of Austin, February 24, 1829.

The ayuntamiento met in special session, with the president and two *regidores* present and with thhe *sindico procurador* still ab-

sent. The question of the election of a *sindico* in the precincts of Mina and Victoria was taken up, and, finding that there was an informality in the election of the officers which took place in December, at the time of the regular election, their election was declared null. Therefore the ayuntamiento ordered that an election for *sindico* in the precinct of Victoria take place on the 15th of the coming March, the polls to be open at three places; that is, at William Stafford's, at Brazoria, and at Harrisburg; and that another election for *sindico* be held the same day in the precinct of Mina, with the polls in two places, William Kincheloe's house and Thomas M. Duke's house. To hold these elections the ayuntamiento appointed the following citizens: At Stafford's, Clement C. Dyer; at Brazoria, the *Comisario* Alexander Hodge; at Harrisburg, Nicholas Clopper; at Kincheloe's Freeman George; at Thomas M. Duke's, the said Duke. And after ordering the [p. 22a] necessary notices and circulars, the session closed.

J. White

Samuel M. Williams,

Secretary.

[p. 23] Town of Austin, March 2, 1829.

The ayuntamiento of this municipality met in regular session, with the president and two *regidores* present and the *sindico procurador* absent. The session was opened by the reading of the proceedings of the special meeting of the month of February just closed, and then, Mr. League, the second *regidor*, taking up for discussion the subject of public instruction, offered a document containing voluntary subscriptions for the citizens of the jurisdiction of more than eight hundred dollars. This fund the subscribers have voluntarily placed at the entire disposition of the ayuntamiento for the erection of a building to be used solely for a school. Mr. League therefore moved that a committee be appointed to form plans for a school building and submit them to the ayuntamiento, with the data which can be obtained regarding the cost of the said building; so that the ayuntamiento may adopt whichever of the said plans may, in its opinion, be most suitable for the school. Citizens Stephen F. Austin, Ira Ingram, and Stephen Richardson were appointed a committee for this purpose; and the ayuntamiento set the term of fourteen days within which

the said committee should present the plans and the estimate of the cost of the said building.

The ayuntamiento passed then to the consideration of the subject of drunkards and vagrants in the municipality, with the object of eliminating entirely such evils, which corrupt the morals of youth and present disgraceful spectacles to society. Knowing that there are in the town at present two examples of this sort of shameful conduct, namely, William M. Rivers and Charles Smith, the ayuntamiento ordered that they be informed by an official notice that they are exposed to all the rigor of the law on the subject, and that the ayuntamiento will strictly require of them proper conduct (*conducta arreglada*), otherwise it will proceed against them. The ayuntamiento knows, moreover, that there are others in the municipality who are coming to be in the same class as the above two; and to those persons also notice shall be given that they must regulate their conduct or expose themselves to [p. 23a] the laws on the subject.

For the fulfillment of articles 109 and 110 of the law No. 37¹⁶ concerning hospitals, apothecaries, and physicians, the ayuntamiento ordered that the said articles be translated and posted in public places with a notice to those concerned in the municipality to present themselves to the ayuntamiento with their diplomas, etc., in order that said diplomas may follow the course that the law prescribes, that the physicians may practice their profession with the necessary license, and that those who do not possess diplomas may not deceive the public nor be permitted to practice a profession which they have neither knowledge nor other necessary requisites for practicing.

The ayuntamiento passed to the consideration of the condition of the road from here through the woods on the other side of the river, and agreed that all the inhabitants of that side of the river within the following district shall work the said road and put it in condition for carts and wagons: This district is defined by a line which begins on the road, three leagues from the river, and follows the course of the river at a distance of three leagues to a little creek below the Hensleys; [p. 24] thence down this creek to the river; thence up the river to the upper corner of the *labors*

¹⁶See THE QUARTERLY, XXI, 300.

north of the national road; thence following the upper line of said *labors* eastward to a point three leagues distant from the river; and thence southward, keeping the course of the river to the point of beginning. The ayuntamiento appointed Isaac Best to supervise the work of the inhabitants, under the instructions of the ayuntamiento. It was also agreed that the *Atravesia* (Ferry?) road, known as the Madelana road, which crosses the river at Jared E. Groce's house, shall be worked by the said Groce with his negroes, according to the instructions of the ayuntamiento, from his place to the intersection of the road that runs from here to Gustavus Edwards's.

There being no further business, the session adjourned, to meet tomorrow.

J. White
Samuel M. Williams,
Secretary.

[p. 24a] Town of Austin, March 3, 1829.

The ayuntamiento of this municipality met in conformity with the resolution of yesterday. The session was begun by the reading of yesterday's proceedings. The election of a *comisario* and a *sindico* for the settlement of Gonzales on the Guadalupe, joined to this jurisdiction by superior order, was then taken up; and the ayuntamiento resolved that the necessary instructions should be sent to the empresario to hold the elections without delay and send the returns to this ayuntamiento. The ayuntamiento likewise decreed that orders should be sent at the same time for the election of officers and the organization of the civic militia of that settlement.

J. White
Samuel M. Williams,
Secretary.

[p. 25] Town of Austin, March 18, 1829.

This day William Cooper presented himself and took the oath as *sindico procurador*.

J. White,
Samuel M. Williams,
Secretary.

Town of Austin, March 21, 1829.

This day Freeman George presented himself and took the oath as *comisario* of the precinct of Mina.

J. White

Samuel M. Williams,
Secretary.

Town of Austin, March 21, 1829.

The ayuntamiento of the jurisdiction of Austin met for the election of the officers of the civic militia of this jurisdiction, constituting a battalion of four companies. The following citizens [p. 25a] were elected officers of the companies composing the battalion of Austin.

For the first company

Abner Kuykendall, Captain.

Thomas Alley, Lieutenant.

Jesse Grimes, Lieutenant.

Leonard W. Groce, Sub-lieutenant.

Randall Jones, Sub-lieutenant.

Thomas H. Borden, First Sergeant.

John York,

Joshua Parker,

Francis Holland,

Brazilla Kuykendall,

} Second Sergeant.

For the second company

Martin Allen, Captain.

Miles N. Allen, Lieutenant.

Robert Vince, Lieutenant.

John Allcorn, Sub-lieutenant.

William W. Alsberry, Sub-lieutenant.

Daniel Shipman, First Sergeant.

John Shipman,

Harvey Stafford,

Wm Bloodgood,

Henry White,

} Second Sergeant.

For the third company

James B. Bailey, Captain.

Hinton Curtis, Lieutenant.

Pleasant D. McNeel, Lieutenant.

Andrew Roberts, Sub-lieutenant. [p. 26]

Samuel Gillet, Sub-lieutenant.

Abner Harris, First Sergeant.

Eli Mitchell,

James Hodge,

Gains Bailey,

Garen Hines,

} Second Sergeant.

For the fourth company

Bartlett Sims, Captain.

John Bowman, Lieutenant.

Elias R. Wightman, Lieutenant.

John Huff, Sub-lieutenant.

Prosper Hope, Sub-lieutenant.

Jefferson George, First Sergeant.

Thomas Williams,

Benjamin Rawls,

Ralph Wright,

Adolphus Hope,

} Second Sergeant.

Following the election, the ayuntamiento notified each officer of his election and instructed him to be present before the ayuntamiento on the 4th of April next for the election of the battalion staff.

J. White,

Samuel M. Williams,

Secretary.

[p. 26a] Town of Austin, April 4, 1829.

The ayuntamiento of the jurisdiction met to hold the election for the staff of the Battalion of Austin. The following company officers appeared and took the oath as required by article 5 of decree No. 69.¹⁷

¹⁷Gammel, *Laws of Texas*, I, 220: "Art. 5. The form of oath . . . shall be reduced to the following: You solemnly swear, in the presence of God, to use the arms the country places in your hands in defence of her independence, of the Constitution of the republic, and that of the State.

First Company

Lieutenant Jesse Grimes
 Sub-lieutenant Leon. W. Groce
 Captn. Abner Kuykendall
 Lieutenant Thomas Alley

Third Company

Capn. J. B. Bailey

Second Company

Capn. Martin Allen
 Lieutenant Robt. Vince
 Lieutenant Miles N. Allen
 Sub-lieutenant John Allcorn

Fourth Company

Captain Bartlett Sims
 Sub-lieutenant John Huff
 Sub-lieutenant Prosper Hope

These officers proceeded immediately to the nomination of the staff of the Battalion of Austin, and the following were elected: For the office of colonel Stephen Austin received 11 votes, for office of lieutenant colonel [p. 27] Zeno Philips received 11 votes, for the office of sub-adjutant, Samuel C. Hiram received 11 votes, Francis F. Wells received 11 votes for the office of surgeon, George Huff received 11 votes for the office of armorer, and Thomas Slaughter 11 votes for the office of drum major. For the office of first adjutant Oliver Jones received 10 votes and James Lindsey 1 vote; for the office of second adjutant James Lindsey received 10 votes; and in consequence they were declared elected by a majority of the votes.

A memorial of some citizens of the district forming the third company was introduced by the *sincido procurador*, complaining against the election which was held in that district for officers, alleging that persons voted who had resided in the jurisdiction no more than a month before the election. The ayuntamiento decided to refer the matter to the political chief of the department for his decision.

Then all the battalion officers present proceeded to vote for inspector. Juan Martin de Berimendi received —¹⁸ votes, and appropriate notice of his election is to be given to the government.

J. White

Samuel M. Williams,

Secretary.

"Art. 6. To the oath taken by the soldiers the following words shall be added, 'faithfully to obey the officers you have chosen, and to respect the lawfully constituted authorities.'"

¹⁸The number is left blank in the original.

[p. 27a] Town of Austin, April 6, 1829.

The ayuntamiento of this jurisdiction met in regular session, with the president and two *regidores* present and the *sindico procurador*, Mr. Cooper, absent. The ayuntamiento ordered that the secretary should take from this book a list of the persons elected as company officers of the civil militia of this municipality, adding to it those of the non-commissioned officers, and those of De Witt's colony, in case they arrive before the departure of the next mail, and send the same with a statement of the force and armament to the chief of the department, for the appropriate ends.

Colonel Stephen Austin presented a petition from Mr. Randall Jones giving the reasons which prevent him from discharging the duties of sub-lieutenant of the first company of civic militia, and, considering them just and right, the ayuntamiento declared him excused and ordered that the first sergeant should take his place.

The ayuntamiento also ordered that the secretary make a statement of the births, marriages, and deaths during the first quarter of this year, for transmission to the political chief, as law No. 37 requires.¹⁹

[p. 28] Mr. H. H. League took up the matter of the building of a school house, which was considered in the session of March. He said that he had understood from the gentlemen of the committee appointed to draw plans and secure information for the ayuntamiento, that, for various reasons, they had been unable to get from the contractors (*maestros*) the data necessary for estimating the cost; and that the committee asked an extension of one month for completing the matter referred to its charge.

J. White

Samuel M. Williams,

Secretary.

[p. 28a] Town of Austin, April 29, 1829.

The ayuntamiento of Austin met in special session, the president and the two *regidores* present and the *sindico procurador* absent. Citizen Thomas J. Gazley presented two certificates from scientific bodies (*corporaciones scientificos*) in the States of the North, accrediting his knowledge and skill in the practice of medicine. The ayuntamiento agreed to grant him a provisional

¹⁹See Art. 121, THE QUARTERLY, XXI, 300.

license to practice his profession as a physician, pending the resolution of the supreme government, and for that purpose ordered that the said documents be sent to the government for its discussion.

Thereupon the session closed.

J. White
Samuel M. Williams,
Secretary.

Town of Austin, May 4, 1829.

The ayuntamiento of this jurisdiction met in regular session, with all the members present. The subject of the establishment of an academy was taken up as provided in the session of April 6 last. As it was inconvenient for the rest of the members of the [p. 29] committee appointed by the session of March 2 to serve, the ayuntamiento discharged the said committee and appointed Messrs. Stephen Austin, William Morton, Stephen Richardson, Thomas M. Duke and [George?]²⁰ Dennett to form the plans for the building of an academy and the estimate of the cost of the enterprise, with the method of defraying the same.

J. White
Samuel M. Williams,
Secretary.

[p. 29a] Town of Austin, October 20, 1829.

The ayuntamiento of this jurisdiction met with the alcalde president, the two *regidores* Thomas Davis and Hosea H. League present, and the *sindico procurador* absent.

The president took the floor and proposed for discussion the necessity of taking the census of the jurisdiction for the purpose of making the statements which must be sent to the government. It was agreed by the members that they should proceed immediately to take the statistical census of the jurisdiction, and that the necessary orders should be sent to the *comisarios* to do what is required of them in their respective precincts.

J. White,
Samuel M. Williams,
Secretary.

²⁰The name is blank in the original.

Town of Austin, October 21, 1829.

The ayuntamiento met in special session with the president, *regidores* and *sindico procurador* present. The *sincido procurador* declared that, considering the abandoned condition of the crossing of the river at this point, it was necessary for the ayuntamiento to take the measures necessary in order to compel the individuals to whom the ferry is leased to fulfill their obligations, that the public might not be inconvenienced for want of attention and boats; and that if the said individuals did not possess facilities for discharging their duty, their bondsmen should be proceeded against in the manner which the ayuntamiento should deem necessary to save its own responsibility. [p. 30] Inasmuch as the present condition of the ferry across the river at this place is so abandoned, it was agreed by the ayuntamiento that notice should be given to the person who holds the lease of the ferry and to his securities, if necessary, that he must immediately put in operation a sufficient number of boats to accommodate travelers, vehicles, etc., that he must put the approaches to the ferry in condition for travel by filling gullies in the river bank, and that he must pay an appropriate price for the rent of the ferry. It was agreed that the alcalde should issue the orders necessary for this purpose.²¹

Town of Austin, November 14, 1829.

The ayuntamiento of the jurisdiction of Austin met in special session, the president, the two *regidores*, and the *sindico procurador* present. It was suggested by the second *regidor* that in view of the importance of concluding the census of this jurisdiction as quickly as possible, it seemed very necessary to set a day for the members to make a report on the matter; and it was agreed that on the 23d of the present month each one should make his respective report, from which the general report is to be made up.

Then Dr. Robert Peebles presented his diplomas as a physician and was granted a provisional license by the ayuntamiento to prac-

²¹Por cuanto á que el estado de la travesía al paso de este río á esta villa es tan abandonado se acuerdo por el ayuntamiento que se da noticia al individuo interesado que la tiene arrendado y á sus fiadores en caso necesario que es menester que inmediatamente se poner botes suficientes para pasar los pasajeros, y guagines, etc., como de poner los barrancos en un estado transitables, y para pagar lo que debe el individuo para el alquiler de la atraviesa.

tice his profession in this jurisdiction. The diploma of Francis F. Wells was also considered, and he was granted a similar license to practice as a physician in this jurisdiction.

[p. 30a] The ayuntamiento then took under consideration the sale of the building and garden lots belonging to the municipality, and, in view of the number of citizens desiring lots and the town's need of funds, it was agreed that on December 15 next the corporation should proceed to sell the lots necessary for the citizens who wish them. It was provided that the ayuntamiento should publish the rules and regulations which it deems necessary to form.

In conclusion, the ayuntamiento agreed that since the person who owns the ferry boats at this town has not fulfilled his obligations, the members shall, on the 22d, inspect the crossing to see whether he has discharged his duty concerning the approaches (*visitar los barrancos para ver si se ha cumplido el intersado sus deberes*).

The meeting adjourned till the 23d of the present month.

Town of Austin, November 22, 1829.

The ayuntamiento met in accordance with the agreement of the 14th. The members were not ready with their reports on the census, and a meeting was fixed for the coming Friday.

J. White,
Samuel M. Williams,
Secretary.

[p. 31] Town of Austin, November 27, 1829.

The ayuntamiento met as provided by the session of the 23d (*sic*), and the members having presented their notes on the census of this municipality, it was shown that the municipality has a population of more than 2,800 souls. In consequence of this, and in accordance with the provision of article 98 of law No. 37, concerning the government of Texas, which declares that towns with a population of more than 2,500 shall have one *alcalde*, four *regidores*, and one *sindico procurador* composing the ayuntamiento for the following year, the ayuntamiento voted that a proclamation should be issued to the inhabitants of the municipality calling an election on the second Sunday of the coming month. At this election incumbents for the above offices are to be elected,

and, in addition, a *comarisio* and a *sindico* for the following precincts: the San Jacinto and its waters, the upper settlement, the lower Brazos, and the west bank of the San Bernard and the Colorado:

The following points were fixed for the election: (1) the town of Austin; (2) the house of John P. Coles, where the said Coles will preside; (3) Francis Holland's house, where Jesse Grimes will preside; (4) Mosea Rousseau's house on the Colorado, where the *sindico procurador* will preside; (5) Lawrence Ramy's house, where Freeman George will preside; [p. 31a] (6) the town of Brazoria, where Comisario Hodge will preside; (7) William Stafford's house, where *Regidor* Davis will preside; (8) Harrisburgh, where *Regidor* League will preside. In addition, it was ordered that an election should be held in the settlement of the Empresario DeWitt in the town of Gonzales, which should be presided over by the *comisario* of that precinct.

The precinct of San Jacinto is composed of all the settlements on the waters of that river below the Atascosito road. The upper precinct is included within the following limits: starting from a point on the Madelena [or Madelana or Madelena] road, called in English the Coshaté road, two leagues from the east bank of the Brazos river and following a line which shall strike the Lahabia road at the point where the said road crosses the Colorado; thence crossing the river and following said road two leagues; thence up, following the said river at the same distance to the Bexar road, thence eastward following the said road across the Brazos to the watershed between the Brazos and the Trinity; thence downward along the divide to the Coshaté road; and along this road to the point of beginning. This precinct has been named the precinct of Bastrop.

The *sindico procurador* presented the certificate offered by Doctor James Miller for license to practice his profession as a physician in this jurisdiction, and the ayuntamiento, having granted the necessary license, ordered that Miller and the other gentlemen who have asked for license to [p. 32] practice medicine in this municipality shall present themselves to the ayuntamiento and secure a written license, as prescribed by article No. 110 of law No. 37, which document shall serve them as full authority to

practice their profession and collect according to the laws the fees for their work.

Continuing, the ayuntamiento appointed Thomas Borden surveyor of the municipality and ordered that he furnish the ayuntamiento the appropriate bond for the faithful discharge of his duty.

J. White,
Samuel M. Williams,
Secretary.

Town of Austin, December 14, 1829.

The ayuntamiento met in special session to make regulations for the sale of lots which is to take place tomorrow. The ayuntamiento agreed that, according to the decision of the appraisers, the price for building lots should be \$15, and of the garden lots \$30. Furthermore, the ayuntamiento agreed that the term of six months shall be given to each purchaser for making payment; also that each one who buys a building lot must, within one year from tomorrow, put a house or good cabin (*jacal*) on it. This shall serve for one, two, or three lots. Any one who buys six lots must build two houses or cabins on two distinct lots. The garden lots must be enclosed within one year.

J. White,
Samuel M. Williams,
Secretary.

[p. 32a] Town of Austin, December 10, 1829.

List of the individuals who received votes for alcalde in the municipal elections held on the 13th and 14th of the present month in conformity with article 164 of the constitution and articles 97 and 100 of law No. 37.

Thomas Barnett received 270 votes

Stephen Richardson received 83 votes

J. White
Alexr. Hodge
Martin Allen
Saml. C. Hiram
William Dobie Dunlap
R. M. Cartwright

[p. 33a] Town of Austin, December 20, 1829.

List of the individuals who received votes for the office of *regidor* in the municipal elections held the 13th and 14th of the present month, in conformity with article 164 of the constitution and articles 197 and 100 of law No. 37 for the year 1830.

Jesse H. Cartwright received 170 votes

Walter C. White received 144 votes

A. H. Philips received 118 votes

Wm. Robinson received 102 votes

Churchil Fulchear received 91 votes

A. C. Buckner received 65 votes

Pleasant D. McNeil received 64 votes

Martin Allen received 63 votes

Wm. Rabb received 35 votes

J. Philipoe received 15 votes

R. Jones received 13 votes

Wm. Pettus received 11 votes

Z. Philips received 2 votes

J. White

Alexr. Hodge

Martin Allen

Saml. C. Hiram

William Dobie Dunlap

R. M. Cartwright

[p. 34] Town of Austin, December 20, 1829.

List of the individuals who received votes for the office of *sindico procurador* in the municipal elections held on the 13th and 14th of the present month in conformity with article 164 of the constitution and articles 97 and 100 of law No. 37, for the year 1830.

Walter C. White received 103 votes

Wm Pettus received 42 votes

James Knight received 35 votes

Wm Rabb received 18 votes

J. H. Cartwright received 17 votes

Jesse Grimes received 6 votes

F. Slack received 3 votes

Isaac Pennington received 1 vote

J. White

Alexr. Hodge

Saml. C. Hiram,

William Dobie Dunlap

R. M. Cartwright

[p. 34a] Town of Austin, December 21, 1829.

The ayuntamiento met in special session to make regulations and verify the sales, on the 15th of this month, of certain building lots and garden lots belonging to the town. The ayuntamiento voted that all the purchasers should be registered, with the numbers of the lots that each bought, which shall serve for all time as a record to show the interested persons, in case of necessity, the lots they bought. Likewise the ayuntamiento ordered that titles of possession be issued to such purchaser as soon as he pays the price for which the lots were sold. And since at the time of the sale the price fixed for the lots by appraisers was published, along with the rules of the ayuntamiento, adopted in session of the 14th, no one will ever have just cause to complain.

The names of the purchasers [p. 35] are as follows:

George B. McKinstrey bought lots 19 and 48, the first at \$92 and the other at \$25, and one garden lot No. 38 at \$30, which makes the sum of.....	\$147
George [Godwin] B. Cotten bought lots 49 and 50, the first at \$25 and the other at \$20, which makes the sum of.....	\$ 45
George Dennett bought building lots 128 and 129, each at the price of \$25, which makes the sum of.....	\$ 50
Stephen Richardson bought No. 565 at.....	\$ 93
Joseph White bought Nos. 566, 133, 134, 135, the first at \$40, the second, third, and fourth at \$15 each, which makes the sum of.....	\$ 85
C. Bury bought Nos. 79 and 80, the first at \$15 and the second at \$22.....	37

Carried forward\$502

[p. 35a] Brought forward.....	\$502
Isaac Pennington bought Nos. 579, 125, and 126, the first at \$30 and the two others at \$15 each, which is.....	\$ 60
Robert Peebles bought Nos. 139, 140, 141, 184, 185, and 186, each one at \$15; and garden lots Nos. 43 and 46, the first at \$34 and the second at \$41, which is.....	\$165
William B. Whitesides bought No. 22 at \$41, which is.....	\$ 41
Sam Harding bought Nos. 70 and 71, at 15 each, which is..	\$ 30
Thomas H. Borden bought garden lot No. 18 at.....	\$ 30
John Pettus bought garden lot No. 45, at.....	\$ 30
Samuel M. Williams bought for James Hope garden lots Nos. 41 and 42, the first at \$50 and the second at \$45, which is..	\$ 95
	<hr/>
	\$953

The sum total of the sale was nine hundred and fifty-three dollars.

[p. 36] Town of Austin, December 28, 1829.

The ayuntamiento met in special session. The secretary presented a decree of the commissioner general asking whether José Sandoval, to whom a league of land was granted August 31, 1825, has made to this ayuntamiento the first payment, as provided by article 22 of the state colonization law of March 24, 1825. This ayuntamiento has to say that the said José Sandoval, neither in person nor by attorney or agent, has ever paid this ayuntamiento any sum of money whatever in recognition as provided by article 22 of the colonization law; that the term of payment expired August 31 last; that the ayuntamiento does not know where the said José Sandoval may be found; that he has neither settled nor cultivated the said land. This is what the ayuntamiento has to say on the subject.

J. White

Samuel M. Williams,
Secretary.

[p. 36a] Town of Austin, December 30, 1829.

The ayuntamiento met in special session to wind up the unfinished business of this year. It was ordered that all unpaid accounts against the ayuntamiento shall be presented tomorrow for

examination and approval or disapproval according to the circumstances of the case. The secretary shall prepare in this book of proceedings a general statement of all bills, including the account which he holds against the ayuntamiento for his salary.

The documents which the law requires the ayuntamiento to send to the chief of the department shall be arranged and sent to the chief for their respective purposes by the next mail.

The session adjourned until tomorrow.

J. White
Samuel M. Williams,
Secretary.

[p. 37] Town of Austin, December 31, 1829.

The ayuntamiento met in special session, as provided in yesterday's session. The ayuntamiento entered into an examination of the statement prepared by the secretary; Samuel M. Williams, for his salary as well as for the year 1829. The ayuntamiento declared its entire agreement with it, and approved it in all its parts. The total amounted to \$849, and as the said secretary wished to deduct from his account \$95 to be credited on two garden lots Nos. 41 and 42 which he bought at public sale, the ayuntamiento permitted this, and considers that account paid in full. The appropriate title of possession is to be issued to James Hope, for whom the lots were bought—their value being satisfied by the discount made by the secretary.

H. H. League, *regidor*, presented an account against the ayuntamiento for the rent of a house for the term of five months [p. 37a] at the rate of eight dollars a month, which amounts to \$40; and for thirty-one loads of wood at 75 cents a load, which is \$23.25—a total of \$63.25, which was approved by the ayuntamiento.

Mr. White, the president, presented an account against the ayuntamiento for seven months' rent of a house, at the rate of \$8 a month, which makes \$56; another bill for \$3 for mail to Nacogdoches; and \$11.25 for paper and ink—making the sum of seventy dollars [*sic*], which was approved by the ayuntamiento.

J. White
Samuel M. Williams,
Secretary.

[p. 38] Statement of Samuel M. Williams against the ayuntamiento of Austin for his salary as secretary for the year 1829:

Dr.	First, eight hundred dollars due me by the ayuntamiento of this jurisdiction for my services as secretary for the year 1829, which is.....	\$800
Dr.	Five per cent of the sum of \$953 which was yielded by the public sale of lots conducted by me on December 15	49.62½
		<hr/> \$849.62½

Cr.	Credit is given for \$95, the price of two garden lots, Nos. 41 and 42, one for \$50 and the other for \$45, which is.....	95.—
		<hr/>

	Balance due me.....	\$754.50
--	---------------------	----------

Approved by the ayuntamiento December 31, 1829.

J. White

Samuel M. Williams,
Secretary.

[p. 38a] Account rendered against the ayuntamiento by H. H. League:

Dr.	\$40 for five months' house rent at \$8 a month.....	\$40.
Dr.	Thirty-one loads of wood at 75 cents a load.....	23.25
		<hr/> \$63.25

Cr.	Three dollars and seven <i>reales</i> , received in <i>reales</i>	\$ 3.87½
	Sixty dollars which he owes for building lots and one gard enlot—the building lots at \$10 each and the garden lot at \$20.....	\$60
		<hr/>

63.87½

	There remains due to the public funds.....	\$.62½
--	--	---------

Approved by the ayuntamiento December 31, 1829.

J. White

Samuel M. Williams,
Secretary.

[p. 39] Account rendered against the ayuntamiento by Joseph White:

Dr. \$56 for rent of a house for seven months, at \$8 a month	\$56.00
Dr. \$11.25 for paper and ink.....	11.25
Dr. \$3 paid for courier to Nacogdoches.....	3.00
	<hr/>
	\$70.25
Cr. \$46.12½ which he has received in cash.....	46.12½
	<hr/>
	\$24.12½

Remaining due in my favor the sum of twenty-four dollars twelve and a half cents.

Approved by the ayuntamiento, December 31, 1829.

J. White

Samuel M. Williams,
Secretary.

[p. 39a] Continuing: two drafts were presented to the ayuntamiento, drawn against the municipal funds by the secretary to the account of his salary—one for \$160 in favor of Thomas J. McKinney and the other for \$150 in favor of Joseph White, the two making a total of \$310, which, deducted from \$754.62½ due the said secretary, leaves in his favor \$444.62½—and Mr. Thomas F. McKinney has in his favor \$160 and Mr. Joseph White has in his favor \$150.

[p. 40] Continuing: Mr. Joseph White proposed to take in part payment of the above \$150 due him an account of \$121.50 which the ayuntamiento holds against Horatio Chriesman. This was agreed to by the ayuntamiento; so that Chriesman's debt to the ayuntamiento is satisfied and paid in full, and he owes nothing, except to Mr. White who paid it for him. December 31, 1829.

J. White

Samuel M. Williams,
Secretary.

[40a] In the same town, and on the same day, month, and year, a petition was presented by Hosea H. League, praying that this ayuntamiento, in consideration of his poor health should re-

quest the chief of this department to excuse the said League from the discharge of his office as *regidor*; also that it should solicit from the said chief the assistance necessary to secure this favor in behalf of the said *regidor* League from the supreme government of the state—all of which was adopted and ordered by this ayuntamiento, and the secretary was authorized to draw up a memorial on the subject to be sent to the said chief.

Samuel M. Williams,
Secretary.

BOOK REVIEWS

Chronicles of Cape Fear River, 1660-1916. By James Sprunt, with preface by S. A. Ashe. Second Edition. (Raleigh, N. C., Edwards & Broughton Printing Company, 1916, Pp. xi, 732. \$4.00. For sale by Miss Rosa Pendleton Chiles, Washington, D. C.

Mr. James Sprunt, a prominent citizen of Wilmington, N. C., has been identified for many years with every effort to collect and preserve the material relating to the history of his own section of his state and to promote historical research in that fruitful field. All students of Southern history know the *James Sprunt Historical Publications* issued by the University of North Carolina and their predecessors, the *James Sprunt Historical Monographs*.

This volume is in a large part the result of Mr. Sprunt's own researches which have extended over many years of a busy life. The first edition was published in 1914. This second one contains about one hundred pages of new material and six maps, with a rearrangement of the whole book. It makes an imposing volume.

Beginning with accounts of the origin of the name of Cape Fear, of the Indians of that vicinity, and the first European explorers, the chapters deal successively with the developments of the colonial period—the establishment of towns and forts, early commerce, colonial society and local worthies—with the development of the spirit of revolution, and the Revolution itself; then on through the nineteenth century—the rise of steamboat navigation, the stirring of Wilmington's ambition to become an important port, and the pushing of internal improvements, especially railroads, to that end—with glimpses of great personages who move in and out of the picture and gossipy anecdotes of some of lesser note. About one-third of the book is given to the four years of the Civil War, notable years in the history of Wilmington, when that place was by far the most important port in the Confederacy and for much of the time the only one. The stories of the blockade-running, in which Mr. Sprunt himself had a part, are the most fascinating in the volume, while the author's

estimates of the export and import trade that passed through his little city are of real value to the student of Civil War history and give to the book more than a local value. The final chapter, comprising nearly two hundred pages, includes a multitude of subjects—trade since the war, problems of coastal navigation, and federal improvements, appreciative sketches of various persons of prominence, the activities of local organizations, the municipal problems and the general progress of Wilmington.

Mr. Sprunt has made extensive use of the writings of others, even inserting articles of some length both from the contemporary and the historian, so that to an extent the volume resembles a collection of documents; but these selections are chosen with care and judgment. His own portion, which is the major part, is written in an easy and piquant style, while the whole book abounds in the color given by happy anecdote and charming reminiscence. How one wishes that something of as good quality were done for the older communities of Texas.

The index, which covers forty-four pages, is excellent as to names but less satisfactory as to subjects. The volume is handsomely bound and will be a welcome addition to any library of Southern history.

CHAS. W. RAMSDELL.

NEWS ITEMS

The Louisiana Historical Quarterly (September, 1917) contains an account of "Lafayette's visit to New Orleans," by H. Renshaw, "Notes bibliographiques et raisonnés sur les principaux ouvrages publiés sur la Floride et l'Ancienne Louisiane depuis leur découverte jusqu'à l'époque actuelle," by A. L. Boimare, and a sketch of "General James Wilkinson," by his great grandson James Wilkinson. The "Notes bibliographiques" embrace one hundred and ninety titles, were completed in 1853, and are taken from the original manuscript in the library of Mr. T. P. Thompson, of New Orleans.

Publications of the Nebraska State Historical Society, XVII, 260-268, contain a reminiscence entitled "Trailing Texas long-horn cattle through Nebraska." The herd comprised 25,000 head,

originated on the Nueces river, and was delivered in the Whetstone Bottom of the Missouri river in Nebraska in the summer of 1876.

The Belton Journal on January 3, 1918, printed an article by Mr. George W. Tyler, entitled "Bell County's Charter Oak." Under this live oak, which stands near the bridge across the Leon river on the Belton-Temple pike, was held the election in 1850 for the organization of the county. This article is an excerpt from some "Notes on Bell County History" which Mr. Tyler has in preparation.

Excerpts from a diary kept by Mr. D. P. Hopkins, of the Texas Frontier Regiment, covering the period from February 26 to August 23, 1862, were printed in the *San Antonio Express* January 13, 1918.

"The expulsion of the British consuls by the Confederate Government," by M. L. Bonham, is printed in *Americana*, XII, 224-226.

Some results of an expert survey of the public schools of Walker county, Texas, are published in the *Journal of Education*, January 3, 1918.

Portraits of ex-Governors Hogg, Culberson, and Sayers have been placed in the Law Library of the University of Texas. They are the gift of a donor whose name has not been announced.

A portrait of Judge James L. Autry was placed in the Lawyers' Law Library of Houston, March 25, 1918.

W. J. McDonald, former deputy sheriff, deputy United States marshal, Ranger captain, State Revenue Agent, and hero of *Captain Bill McDonald, Texas Ranger: A story of frontier reform*, by A. B. Paine, died at Wichita Falls, January 15, 1918. He was United States marshal for the North Texas district at the time of his death.

Isaac Sanger, eldest brother of the firm Sanger Brothers, of Waco and Dallas, and its founder, died at Sea Cliff, Long Island, N. Y., January 16, 1918.

Judge R. S. Neblett, of Corsicana, died at Temple, January 18, 1918.

Miss Julia Pease, the last surviving daughter of Governor Elisha M. Pease, died at her home in Austin, January 19, 1918. Miss Pease was a member of the Executive Committee of the Association.

Rt. Rev. Nicholas Aloysius Gallagher, bishop of the Catholic diocese of Galveston for thirty-six years, died at St. Mary's Cathedral rectory, Galveston, January 21, 1918.

Joseph Bailey Polley, author of *A soldiers letters to charming Nellie* and of *Hood's Texas Brigade: Its marches, its battles, its achievements*, died at Floresville, Texas, February 2, 1918. A sketch of his life was printed in the *San Antonio Express*, February 10.

Judge Beauregard Bryan, who served the Association for ten years as one of its vice-presidents, died March 4, 1918, at El Paso. He was an authority on Texas history.

Judge George Clark, distinguished jurist and former leader of Texas Democracy, died at his time in Waco, March 28, 1918.

AFFAIRS OF THE ASSOCIATION

The annual business meeting of the Association will be held at Austin at 10 o'clock a. m., April 22, in Room 158 of the Main Building of the University of Texas. There will be a meeting of the Executive Council just preceding the general meeting. There will be no other announcement except through the newspapers.

INDEX TO VOLUME XXI

- Aberdeen, Earl of, letters, 201-203.
 Adaes, capital of Texas, 148.
 Adams, E. D., *British Correspondence Concerning Texas*, 69-98, 185-213.
Advocate of the People's Rights, 135, 139.
 Aitkin, John, 136.
 Alcalde, duties of, 245-246, 249-250.
 Aldasoro, Ambrosio Maria de, 225.
 Alexander, Robert, 41.
 Allcorn, John, 408, 410.
 Allen, Martin, 408, 410, 416, 417.
 Allen, Miles N., 408, 410.
 Allen, Henry W., 66, 68.
 Allen, John W., 41.
 Allen, Oliver H., 139.
 Alley, Rawson, 244, 247, 299, 302-308, 325, 326.
 Alley, Thomas, 408, 410.
 Allston, B., 334.
 Alsberry, William W., 408.
 Andrews, John, 299.
 Annexation, effect on customs duties, 85-86; vote on, 86-88, 89, 90-92; loss and gain by, 104.
 Anthony, D. W., 135, 137, 138, 139.
 Archives of California, 148-149; of New Mexico, 148; of Texas, 148.
Archivo General de Indias, by Charles E. Chapman, 145-155.
 Arredondo, Joaquin de, 223-225, 226.
 Ashbridge [Asbridge], ———, 127.
 Austin, Brown, 130.
 Austin, James B., 128.
 Austin, John, 228.
 Austin, Moses, 223, 225.
 Austin, Stephen F., 128, 129, 134, 218, 299-306, 308, 310, 331, 397, 405, 410-412; authority to govern his colony, 225-252.
 Austin, William G., 68.
 Austin's Colony, population in 1826, 128; in 1829, 414; newspapers, 128-129, 130-135; land system, 233-242; government of, 223-252; "Old Three Hundred," 230; judicial procedure in, 249-250; *Minutes of the Ayuntamiento of San Felipe*, 299-326, 395-423; taxes, 400-403; school, 405, 411, 412.
 Autry, James L., 426.
 Ayuntamiento, functions of, 300-302; of San Felipe, 244-252; minutes of, 299-326, 395-423.
 Bailey, Gains, 409.
 Bailey, James B., 409, 410.
 Baker, Joseph, 141, 142, 143.
 Baker, W. C. W., 41.
 Barker, Eugene C., *Notes on Early Texas Newspapers, 1819-1836*, 127-144; *The Government of Austin's Colony*, 223-252; *Minutes of the Ayuntamiento of San Felipe de Austin, 1828-1832*, 299-326, 395-423.
 Barnett, Thomas, 299, 303.
 Barton, William, poem, 171-172.
 Bastrop, Baron de, 236, 239, 242.
 Bell, Josiah H., 129, 228, 234, 244, 302, 305.
 Benton, Thomas H., 72, 74-76.
 Berimendi, Juan Martin de, 410.
 Best, Isaac, 407.
 Bigelow, Horatio, 127.
 Bigham, Francis, 236.
 Blair, W. B., 334.
 Bledsoe, Jesse, 39.
 Blockade runners, 353, 424.
 Bloodgood, William, 408.
 Bohemians in Texas, 218.
 Boimare, A. L., 425.
 Bolton, Herbert E., 103, 104, 145, 149, 220, 331, 332, 391.
 Bonham, M. L., 426.
 Book Reviews and Notices: *Single Tax Movement in the United States* (Young), 99; *Our Hispanic Southwest* (Peixotto), 100; *José de Galvez, Visitor General of New Spain* (Priestly), 214; *Early History of Cuba, 1492-1586* (Wright), 327; *Chronicles of Cape Fear River, 1660-1916* (Sprunt), 424.
 Borden, Gail, 141, 142.
 Borden, John P., 141.
 Borden, Thomas H., 141, 142, 408, 416, 419.
 Botts, Benjamin A., 345.
 Bowman, John, 409.
 Bravo, Nicholas, 227.
Brazos Planter, 385.
 Breece, Thomas H., 36.
 Briggs, Lawrence P., 391, 392.
British Correspondence Concerning Texas, 69-98, 185-213.
 Broadwell, W. A., 348, 352.
 Brown, John Henry, 385, 386.
 Brusle, Charles C., 68.
 Bryan, Beauregard, 427.
 Bryan, Guy M., 130, 280, 284, 350, 357.
 Bryan, W. Jack, 103.

- Bryan, William, 62.
 Buckley, Eleanor C., 136.
 Buckner, A. C., 417.
 Bugbee, Lester G., 239.
 Burnet, David G., 63, 130, 142.
 Burns, Helen S., 136.
 Burrell, Isaac S., 362, 364.
 Bury, C., 418.
 Byars, N. T., poems, 157-158.
- Cage, B. F., 140.
 Calder, R. J., 104.
 California, exploration of coast and settlement, 107-126.
 California Historical Survey Commission, 220.
 Calvit, Alexander, 299.
 Cartwright, Jesse H., 417.
 Cartwright, R. M., 416, 417, 418.
 Cave, E. W., 386.
 Chaille, William H., 38.
 Chambers, B. S., 381.
 Chambers, T. J., 46.
 Chapman, Charles E., 104, 105, 221; *The Archivo General de Indias*, 145-155; *The Native Sons' Fellowships*, 389-394.
 Chase, W., 63.
 Chriesman, Horatio, 422.
 Christian, A. K., *Tariff History of the Republic of Texas*, II, 1-35.
 Civilian (Houston), 383, 384.
 Civilian and Galveston Gazette, 384-387.
 Clark, George, 427.
 Clark, R. C., 330.
 Clemson, T. G., 334.
 Cleveland, Ezra, 299.
 Clopper, Nicholas, 61, 405.
 Coffin, A. G., 39, 53.
 Coles, John P., 228, 239, 299, 415.
 Collinsworth, J. T., 47.
 Comisario, duties of, 247.
 Commercial Intelligencer, 384.
 Conscription, 354-356.
 The Constitutional Advocate and Brazoria Advertiser, 137-138.
 Contemporary Poetry of the Texan Revolution, 156-184.
 Cook, J. J., 365.
 Cooke, William G., 36, 47.
 Cooper, William, 325, 326, 396, 397, 400, 407, 411.
 Coronado expedition, MS. by Baltasar de Obregón, 153.
 Corpus Christi Gazette, 198, 199.
 Corry, William M., 62, 63.
 Cotton, G. B., 130-135, 137, 418.
 The Cotton Plant, 131, 136.
 Cotton trade, control of by Confederate authorities, 347-353, 356-357.
 Cox, Thomas B., 41.
 Crane, William Carey, 219.
 Cruger, Jacob W., 143.
 Cucullu, —, 290.
 Culberson, Charles A., 426.
 Cummins, James, 228, 299, 304, 310.
 Cunningham, C. H., *The Residencia in the Spanish Colonies*, 253-278; book reviews, 214-217, 222, 327-330; mention, 393.
 Curtis, Hinton, 409.
- Daily Citizen (Vicksburg), 102-103.
 Dameron, William B., 41.
 Davidson, Gordon C., 392, 393.
 Davis, E. J., 373.
 Davis, Thomas, 247, 302-308, 325, 326, 396, 397, 412, 415.
 Day, W. C., 67, 68.
 Debt, public, 206-208.
 Decrees of Coahuila and Texas: No. 37, 299-302; No. 100, 311-324.
 Dennett, George, 412, 418.
 De Witt, Green, 134.
 Dickinson, A. G., 67.
 Dickson, James, poem, 181-183.
 Dienst, Alex, *Contemporary Poetry of the Texan Revolution*, 156-184.
 Doheny, E. L., 330; Doheny Research Commission, 330-331.
 Donelson, A. J., 217.
 Doran, W. P., 362-365, 368, 375, 376.
 Dow, John E., poem, 178.
 Downs, James M., 40.
 Drake, Daniel, 62, 63.
 Ducayet, —, 345.
 Duke, Thomas M., 299, 344, 347, 302-308, 310, 325, 326, 405, 412.
 Dunlap, William Dobie, 134, 416, 417, 418.
 Dunn, William E., 103, 150, 155, 222.
 Durnett, Samuel J., 385, 386.
 Dyer, Clement C., 299, 405.
- Eagle Grove, Fort, 363.
 Eastern Interior Provinces, 223-225, 226, 235.
 Eckhardt, William A., 332.
 Edwards, Gustavus, 407.
 Elam, John P., 299, 304.
 Election, first Texas, 245, 251, 299-307.
 Elliot, Charles, letters, 69-70, 76, 78-98; defends secret trip to Mexico, 80-84, 185-199, 201, 203-210; reviews efforts to prevent annexation, 189-194; recalled, 203.

- The Emigrant*, 139, 140.
 Evans, John S., 384.
 Fairchild, Philo, 299.
 Falkman, J., 53.
 Falvel, Luke A., 63.
 Ferguson, D., 385.
 Finances of the Republic, 1, 2, 12, 15-16, 32-34.
 Fisher, George, 249.
 Flores, Gaspar, 227, 241.
 Foote, Henry S., 37, 38, 45.
 Forbes, G. V. H., poem, 165-166.
 Foster, John R., 299.
 Fowler, Benjamin, 237.
 Freon, J., poems, 163-164, 175-177, 183-184.
 Friley, Hiram, 132.
 Fulchear, Churchill, 417.
 Gallagher, Nicholas A., 427.
 Galvez, José de, 214-217.
 Galvez, Bernado de, 217.
 Gant, William W., 143.
 Garza, Felipe de la, 226, 235.
 Gazley, Thomas J., 411.
 George, Freeman, 405, 408, 415.
 George, Jefferson, 409.
 German emigration to Texas in 1845, 77.
 Gillet, Samuel, 409.
 Gleason, Joseph, 330.
 Goliad, population in 1825, 128.
 Golightly, J. G., 45, 53.
Government of Austin's Colony, 1821-1831, 223-252.
 Gray, A. C., 130, 137, 139, 142, 143, 144.
 Gray, F. C., 140.
 Gray, P. W., 343, 344.
 Gray, Theodore, 221.
 Grayson, Peter W., 383.
 Green, Tom, 365, 366, 368, 369.
 Green, Thomas J., 45, 46, 50, 52.
 Greer, Andrew J., 143.
 Greer, E., 334, 336.
 Grimes, Jesse, 408, 410, 415, 417.
 Groce, Jared E., 236, 407.
 Groce, Leonard W., 408, 410.
 Grover, George W., 362.
 Hackett, Charles W., 105, 149, 220, 394.
 Haden, J. M., 334, 335.
 Hadley, T. B. J., 40.
 Hales, Charles, 62.
 Hall, George B., 303, 325.
 Hamilton, A. J., 387.
 Hamilton, Charles H., 369, 371, 378, 379.
 Hamilton, James, 206, 208.
 Hammon, J. A., 369, 371, 378, 379.
 Harding, Sam, 419.
Harriet Lane, 353, 360-380; list of names of officers and crew, 369-371.
 Harris, —, 140.
 Harris, Abner, 409.
 Harris, Eli, 127.
 Harris, William, 303.
 Hart, John, 370.
 Hart, Simeon, 292, 348.
 Hatcher, Mrs. M. A., 128.
 Hawkins, J. H., 239.
 Hayes, C. W., 378.
 Heartt, C. P., 53.
 Hebert, P. O., 280, 281.
 Hicks, Joseph, 53.
 Hill, Joseph J., 392.
 Hill, Roscoe R., 149, 150, 151, 154, 221.
 Hindman, T. C., 280.
 Hines, Garen, 409.
 Hinkson, John, 325.
 Hiram, Samuel C., 410, 416, 417, 418.
 Hockley, George, 69, 70-71.
 Hodge, Alexander, 299, 304, 405, 415, 416, 417, 418.
 Hodge, James, 409.
 Hoff, Charles F., 332.
 Hogg, J. S., 426.
 Holladay, Florence E., *The Powers of the Commander of the Confederate Trans-Mississippi Department, 1863-1865*, 279-298, 333-359.
 Holland, Francis, 408, 415.
 Holmes, James L., 47.
 Holmes, T. H., 280, 281.
 Holtham, J. G., 132.
 Hope, Adolphus, 409.
 Hope, James, 419, 420.
 Hope, Prosper, 409, 410.
 Hopkins, D. P., 426.
 House, George W., 41.
 Houston, Sam, favors tariff, 3-4, 12, 27; attitude toward annexation, 94-95; veto of act extending limits of the Republic to the Pacific, 194-197; mention, 49, 52, 62, 63, 64, 89, 98, 382, 383, 384, 386.
 Huff, George, 410.
 Huff, John, 409, 410.
 Huger, Benjamin, 334, 335.
 Hunt, Memucan, 37, 46.
 Huston, A., 62.
 Huston, Felix, 38, 39, 43-53.
 Hutchins, W. J., 349.
 Ibarvo, José Ignacio, 130.
 Imports and exports, 32-33.
 Indians, 204-205, 229.

- Ingram, Ira, 244, 247, 302, 305, 325, 397, 400, 405.
 Ingram, Seth, 132.
 Irion, R. A., 383.
- Jackson, Andrew, 71.
 Jackson, Humphrey, 238, 247, 299, 302-306, 326.
 Jamieson, Green B., 299, 304, 325.
 Jennings, J. D., 41.
 Johnson, Alexander, 237.
 Johnson, R. D., 201.
 Johnson, Robert W., 283, 288.
 Johnston, Albert Sidney, 48.
 Jonas, A. L., *The Lost Cause*, 101-102.
 Jones, Alexander, 37.
 Jones, Anson, favors tariff, 14, 15-16, 17, 27; attitude toward annexation, 94; candidate for United States senator, 89-91, 200.
 Jones, Levi, 383.
 Jones, Oliver, 410.
 Jones, Randall, 408, 411, 417.
- Keller, Francis, 129.
 Kennedy, William, letters, 71-74, 76-77, 199-201, 211-213; departure, 199; imperialistic plans, 213.
 Kenney, Lawrence R., 244, 299, 302, 304.
 Kincheloe, William, 234, 299, 303, 304, 405.
 Kittredge, Tracy B., 392, 393.
 Knight, James, 417.
 Kuykendall, Abner, 408, 410.
 Kuykendall, Brazilla, 408.
- Lamar, M. B., opposes tariff, 27, 46, 49.
 Langdon, R. C., 129.
 Lawhon, D. E., 143.
 Lawless, John Y., 365.
 Lea, Edward, 361, 366, 370, 371, 378, 379.
 League, H. H., 132, 302, 305, 325, 326, 395, 397, 403, 405, 411, 412, 415, 420, 421-423.
 Leamans, Nathan, 63.
 Leebrick, Karl C., 105, 393.
 Lewis, M. B., 53.
 Lindsey, James, 410.
 Long, James, 127.
 Looscan, Mrs. A. B., 61, 103.
 Lopez, Gaspar, 235.
The Lost Cause (poem), 101-102.
 Lubbock, F. R., 284.
 Lubbock, Henry S., 365, 368, 369, 371, 378.
 Ludlow, Israel, 62.
 Lyttle, Robert T., 61, 62.
 McCoy, James D., 134.
- McCrosky, John, 325.
 McDonald, W. J., 426.
 McGarvey, James, 378.
 McKinney, Thomas F., 131, 422.
 McKinstry, George B., 418.
 Macklin, Theodore, 331.
 Maclin, James F., 38.
 McMurray, Donald L., 218.
 McNeel, Pleasant D., 409, 417.
 McWhorter, George C., 40.
 Maetze, Ernest G., 332.
 Magruder, John B., 281, 340, 348, 355, 365, 368, 369, 372, 372, 374, 379.
The Manila Galleon and California, 107-126.
 Manning, T. C., 283.
 Manning, W. R., 100, 221.
 Marsh, Shubael, 299, 304.
 Marshall, Mrs. Mary C., 53.
 Marshall conference, 282-288.
 Martin, Wyly, 302, 305.
 Matagorda newspaper, 144.
 Matamoros expedition, 50.
 Menard, Adolf, 386.
 Merriek, W., 283, 284.
 Merriman, Frank H., 387.
Mexican Advocate, 129-130.
The Mexican Citizen, 131, 135-136.
Militia of Austin's Colony, 232-233, 395-396, 397-400, 408-410.
 Miller, E. T., book review, 99-100.
 Miller, James, 415.
 Miller, W. D., 201.
 Milmo, P., & Co., 346.
 Minor, Mrs. F. D., 388.
Minutes of the Ayuntamiento of San Felipe de Austin, 1828-1832, 299-321, 395-423.
Mississippi and the Independence of Texas, 36-60.
 Mitchell, C. B., 283.
 Mitchell, Eli, 409.
 Monroe, W. F., 366, 369, 378.
 Moore, Francis, 143.
 Moore, Mrs. J. K., 388.
 Moore, Thomas O., 283.
 Morris, Mrs. Mila T., 131.
 Morrison, Moses, 299.
 Morton, William, 244, 302, 305, 412.
 Muldoon, Michael, 136.
 Munce, J. S., 53.
 Murreh, Pendleton, 284, 286, 349, 351, 352, 354-356.
 Mussina, Simon, 144.
- Nacogdoches, in 1819, 127; population in 1828, 128; newspapers, 127, 129-130.

- National Banner*, 383.
 Native Sons of the Golden West, 150.
 151, 220, 389, 390; *Native Sons' Fellowshipships*, 389-394.
 Neblett, R. S., 427.
 New Orleans Greys, 36.
 Newspaper curiosities, 102-103; *Early Texas newspapers, 1819-1836*, 127-144, 383-387.
 Nichols, E. B., 369, 371.
 Norton, A. B., 130-131, 136, 139-141.
Notes on Early Texas Newspapers, 1819-1836, 127-144.
 Nuckols, M. B., 244, 302-304.

 O'Bannon, L. W., 334.
 O'Hara, Theodore, *To the pioneer*, 157.
 Oldham, W. S., 284, 287.
 Olmsted, Frederick L., 331.
 Onderdonk, R. J., 222.
 Orr, George, 134.
 Ould, Robert, 339.

 Parker, C. A., 36.
 Parker, Christopher, 53.
 Parker, Joshua, 408.
 Pascoe, W. H., 387.
 Patterson, W. K., 283, 284.
 Pease, Julia, 427.
 Peebles, Robert, 413, 419.
 Pemberton, Gilbert, 217.
 Pennington, Isaac, 418, 419.
 Penrose, Thomas N., 369, 371, 379.
 Perry, James F., 252.
 Pettus, John, 419.
 Pettus, William, 417.
 Peyton, Jonathan C., 325.
 Philipoe, J., 417.
 Philips, A. H., 417.
 Philips, Zeno, 410, 417.
 Pittman, Hutchins M., 41.
 Polley, J. B., 427.
 Pollock, James, 370.
 Population of Texas about 1826, 128.
 Porter, Fielding, 132.
 Portraits, 104, 426.
 Potter, R. M., poem, 168-169.
The Powers of the Cammander of the Confederate Trans-Mississippi Department, 1863-1865, 279, 298, 333-359.
 Priestly, Herbert I., 104, 105, 145, 214, 221, 331, 391.
 Puelles, José Maria de Jesus, 217.

 Quitman, John A., 38, 39, 41, 45, 51-53.

 Rabb, William, 417.
 Railey, M. M., 53.

 Ramsdell, Charles W., 290, 425.
 Ramy, Lawrence, 415.
 Rawls, Amos, 303, 304.
 Rawls, Benjamin, 409.
 Rawls, Daniel, 303.
 Regidor, duties of, 246.
 Reilly, James, 89.
 Renshaw, H., 425.
 Richardson, William H., 362, 368, 378.
The Residencia in the Spanish Colonies, 253-278.
 Reynolds, Thomas C., 284.
 Richardson, Stephen, 325, 405, 412, 418.
 Riley, James V., 365, 375.
 Rivers, William M., 406.
 Roberts, Andrew, 409.
 Roberts, Ingham S., 104.
 Roberts, O. M., 65.
 Robertson, James A., 150, 331.
 Robertson, John C., 65.
 Robinson, William, 417.
 Rosenberg, Mrs. Mollie Macgill, 222.
 Ross, John M., 39, 44.
 Rousseau, Mosea, 415.
 Royall, R. R., 46.
 Runnels, Hiram G., 56, 92.
 Rusk, Thomas J., 40, 46, 48-50, 198.

 Sambrano, Juan Manuel, 224.
 San Antonio, first newspaper, 127; population in 1826, 128.
 San Felipe, ayuntamiento, 244-252; minutes, 299-326, 395-423; decree regulating, 311-324.
 San José de Aguayo, mission, baptistry window, 332.
 Sandoval, José, 419.
 Sanger, Isaac, 426.
 Sangster, William H., 365.
 Saucedo, José Antonio, 229, 238.
 Saunders, Thomas C., 372, 374.
 Sayers, Joseph D., 426.
 Schurz, William L., *The Manila Galleon and California*, 107-126, 392.
 Seguin, Erasmo, 239, 242.
 Seguin, Juan N., 382.
 Shelby, David, 41.
 Shepard, Seth, 331.
 Shepard, William R., 149, 151, 154.
 Shipman, John, 408.
 Siemerling, A., 332.
 Sims, Bartlett, 409, 410.
 Sindico, duties of, 246.
 Slack, F., 418.
 Slaughter, Thomas, 410.
 Slocum, Milton, 129-130.
 Smith, B. F., 53.
 Smith, Charles, 406.

- Smith, E. Kirby, commander of the Trans-Mississippi Department, 281-298, 333-359.
- Smith, Harvey P., 332.
- Smith, Henry, 2.
- Smith, Leon, 366, 368, 369, 378.
- Smith, Pulaski, 62, 63.
- Smith, Thomas, 373, 374.
- Sorley, James 385.
- Spence, D. W., 222.
- Sprunt, James, 424.
- Stafford, Harvey, 408.
- Stafford, William, 405, 415.
- Steen, J., 53.
- Stephens, H. Morse, 390, 391.
- Sterne, Adolphus, 134.
- Stevens, Walter B., 381, 382.
- Strickland, William, 53.
- Stuart, Ben C., 63, 67, 68, 381, 387, 388.
- Stuart, Hamilton, 381-388.
- Sweetman, M. A., 67, 68.
- Tariff History of the Republic*, II, 1-35.
- Taylor, John D., 299, 303.
- Taylor, Richard, 280, 281.
- Telegraph and Texas Planter*, 141.
- Telegraph and Texas Register*, 141-143.
- Texan revolution, aid and sympathy for in the United States, 36-60, 61-64; contemporary poetry of, 156-184.
- Texas Courier*, 127-128.
- Texas Gazette*, 130-135.
- Texas Gazette and Brazoria Commercial Advertiser*, 137-139.
- Texas Reporter*, 143-144.
- Texas Republican*, 127, 139-141.
- Texian and Emigrants' Guide*, 143.
- Thayer, Mrs. C. M., 41-42.
- Thayer, Clarence C., 345.
- Thayer, George B., 41.
- Thomas, R. S., 334.
- Thompson, Andrew, 372.
- Thompson, H. D., 130.
- Thompson, W. D., 360.
- Thrasher, J. S., 387.
- Tilden, John, 41.
- Toby, Thomas, 143.
- Trans-Mississippi Department, 279-298, 333-359.
- Trenckmann, W. A., 332.
- Tucker, P. C., 364, 366, 368, 369, 372, 379, 380.
- Tucker, Philip C., 3rd, *The United States Gunboat Harriet Lane*, 360-380.
- Tumlinson, John, 227, 228.
- "Twin Sisters" Cannon, 1836-1865*, 61-68.
- Tyler, George, 426.
- Tyler Prison camp, 217.
- Ulster County Gazette*, 102.
- United States government, an Englishman's estimate of, 81-82, 95; troops enter Texas, 78-79, 96-97; ordered to advance to the Rio Grande, 188, 198-199, 200; on the Rio Grande, 203, 204.
- The United States Gunboat Harriet Lane*, 360-380.
- The University of Texas, assault upon, 332.
- Vallette, Henry, 63.
- Vannerson, William, 39.
- Vaughan, J. H., 148.
- Vince, Robert, 408, 410.
- Voorhies, Albert, 284.
- Waddel, P. L., poem, 170-171.
- Wagner, H. R., 131, 136, 137.
- Wainright, John D., 361, 362, 366, 370, 378, 379.
- Wainright sword, 375-378.
- Walker, Robert J., 37, 41, 54-58, 200.
- Webber, R. W., 40.
- Weir, A. R., 365, 375.
- Wells, Francis F., 410, 414.
- Wharton, John A., 104, 139, 140.
- Wheeler, Mrs. Florence S., 384.
- White, Henry, 408.
- White, John M., 41.
- White, Joseph, 325, 326, 395-397, 400, 403-422.
- White, Walter C., 417.
- Whitesides, William B., 419.
- Wightman, Elias R., 409.
- Wilkinson, James, 425.
- Williams, Samuel M., 136, 241, 249, 304-308, 326, 395-397, 400, 403-423.
- Williams, Thomas, 409.
- Williamson, George, 65, 66.
- Williamson, R. M., 134, 135, 136.
- Willis, J. P., 363.
- Winkler, E. W., 101, 103, 127, 129, 222; *"Twin Sisters" Cannon, 1836-1865*, 61-68.
- Winship, A. E., 218.
- Winston, J. E., *Mississippi and the Independence of Texas*, 36-60.
- Woodruff, Edward, 61, 62.
- Wright, Ralph, 409.
- Wroe, W. T., 219.
- Yandell, D. W., 336.
- Yellow fever, 385.
- York, John, 408.

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